

Exhibit D

1 APPEARANCES (Continued):

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-- For the Plaintiff Asha Smith

5
ALSO PRESENT: Bailey Corbin (Lynch Carpenter)

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WITNESSPAGE

Emma Nedley

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1 (It is stipulated by and between
2 counsel for the respective parties that all
3 objections except as to the form of the question
4 are reserved until the time of trial.)

5 THE REPORTER: The attorneys
6 participating in this deposition acknowledge that I
7 am not physically present in the deposition room
8 and that I will be reporting this deposition
9 remotely. They further acknowledge that, in lieu
10 of an oath administered in person, I will
11 administer the oath remotely. The parties and
12 their counsel consent to this arrangement and waive
13 any objections to this manner of reporting.

14 EMMA NEDLEY, having been duly
15 sworn, was examined and testified as follows:

16 * * *

17 EXAMINATION

18 BY MR. KIDNEY:

19 Q. Would you please state your name for
20 the record, your full name?

21 A. Emma Nedley.

22 Q. And, Miss Nedley, have you been
23 deposed before?

24 A. No.

25 Q. Have you ever been a plaintiff before?

1 A. No.

2 Q. Since you have not been deposed
3 before, let me tell you a little bit about what is
4 going to happen today.

5 The court reporter is going to
6 transcribe everything I ask you and everything you
7 say in response. I will assume that if I ask a
8 question and you don't tell me that you -- you have
9 problems understanding it, that you do understand
10 it. Is that fair?

11 A. Yes.

12 Q. And since the court reporter is
13 transcribing this, please try to remember not to
14 nod yes or no but to give verbal answers.

15 If at any time you want to take a
16 break, that is fine. This is not necessarily a
17 marathon. I would just ask that if there's a
18 question on the floor, that you answer the question
19 before we take a break.

20 And if -- one other thing to remember
21 is, if I ask you a question and you think you know
22 what the answer is, and you're eager to answer it,
23 try to wait until I finish with the question
24 because the court reporter will have trouble
25 transcribing both my question and your answer if

1 we're both speaking at the same time.

2 So let me -- let me direct you to a
3 document, which I'm going to have marked as Exhibit
4 1, which is the amended notice of deposition. Do
5 you see that in the documents that you received
6 this morning?

7 A. Yes.

8 (Exhibit 1 was marked.)

9 BY MR. KIDNEY:

10 Q. Have you seen that document before?

11 A. Yes.

12 Q. And when did you see that document?

13 MR. CIOLKO: One second. Just as a
14 general -- just a general direction to the witness.
15 I'm sorry. It seems to be reverb.

16 You can absolutely answer Mr. Kidney
17 these questions. The only thing I would caution is
18 that that if he asks anything about our
19 conversations, please don't -- sorry -- please
20 don't divulge any substance -- the substance of the
21 conversations we had.

22 If he -- Mr. Kidney asks you about a
23 time or a place, that's fine. But in response to
24 any questions, please don't divulge any substantive
25 conversations that we've had. And I'm sure

1 Mr. Kidney is not asking for those.

2 MR. KIDNEY: That's correct.

3 Q. That's why I just asked you when you
4 saw this document. I don't want to know what you
5 and your counsel discussed.

6 A. I'm --

7 MR. CIOLKO: Thank you, Michael.

8 MR. KIDNEY: Sure.

9 A. I'm not sure of the exact date.

10 Q. Approximately?

11 A. Within the last three months.

12 Q. So where are you today, Miss Nedley?

13 MR. CIOLKO: Objection to form.

14 Q. Where are you physically located? Are
15 you at your counsel's office?

16 A. No.

17 Q. Where are you today?

18 A. I'm in Philadelphia at Veritext.

19 Q. And your counsel is with you there
20 today?

21 A. Yes.

22 Q. What did you do to prepare for today's
23 deposition, other than speaking with your counsel?

24 A. I spoke with my counsel and read over
25 the necessary documents.

1 Q. And again, I don't want to know what
2 you discussed with your counsel, but how many times
3 did you speak with your counsel in preparation for
4 today's deposition?

5 A. More than ten.

6 Q. And how much time did you spend
7 speaking with your counsel about today's
8 deposition, approximately?

9 A. Around ten hours.

10 Q. And when was the last time you spoke
11 with your counsel about today's deposition?

12 A. Last night.

13 Q. And did you discuss the deposition
14 with anyone other than your counsel?

15 A. Yes.

16 Q. And who is that?

17 A. Another attorney in the firm.

18 Q. And who --

19 MR. CIOLKO: You want to clarify what
20 you mean by counsel?

21 MR. KIDNEY: Other than Mr. Ciolko.

22 MR. CIOLKO: You can answer.

23 A. So, yes. Kelly Iverson.

24 Q. Okay. Anybody else?

25 A. No.

1 Q. And as you -- have you had a chance to
2 look at the documents that we sent to Mr. Ciolko
3 this morning?

4 A. No.

5 MR. CIOLKO: Based on an email,
6 Michael, that I thought you had sent to Blake
7 before the prior deposition, I did not show the
8 substance of the documents to Miss Nedley.

9 MR. KIDNEY: Understood. Thank you,
10 Ed.

11 BY MR. KIDNEY:

12 Q. Have you searched for any documents in
13 your own files that are relevant to this lawsuit
14 prior to today?

15 A. Yes.

16 Q. And let me show you what I'm going to
17 have marked as Exhibit Number 2, which I'll
18 represent to you are documents that we received
19 from your counsel, Mr. Ciolko, who I understand
20 received those documents from you.

21 (Exhibit 2 was marked.)

22 BY MR. KIDNEY:

23 Q. Do you see those documents?

24 A. Yes.

25 Q. And how many pages do you see?

1 A. Roughly ten.

2 Q. I think exactly there are seven pages,
3 but take your time.

4 MR. CIOLKO: Which document are you
5 referring to?

6 MR. KIDNEY: Jim, can you share your
7 screen so that we're -- there's no question about
8 this?

9 MR. CLAYTON: Yes.

10 A. Do you know the name of that document?
11 I just have the folder.

12 MR. CIOLKO: We're only seeing the
13 folder. Are you speaking about Nedley production?

14 MR. KIDNEY: Yes, Nedley production.

15 A. Okay. I have access.

16 BY MR. KIDNEY:

17 Q. Okay. And are there seven pages in
18 that document, Miss Nedley?

19 A. Yes.

20 Q. When you were looking through your
21 files for documents regarding this lawsuit, did you
22 find any documents other than the documents that
23 are in this deposition exhibit, Nedley production?

24 A. Yes.

25 Q. What documents did you find?

1 A. The emails from my president and her
2 staff.

3 Q. And did you share -- did you send
4 those emails to your counsel?

5 A. I sent the link to all of the emails.

6 Q. Were there any other documents you
7 located other than those?

8 A. I don't believe so.

9 Q. And in the room today with you, do you
10 have any documents, other than the documents that
11 we have -- that you received this morning from your
12 counsel, that we had sent to you?

13 A. No.

14 Q. So, Miss Nedley, tell me, what is your
15 understanding of this lawsuit in your own words?

16 MR. CIOLKO: Objection to form. You
17 can answer.

18 A. My understanding is I paid for an
19 education during the spring of 2020 and my
20 expectations were not exceeded with the coronavirus
21 outbreak.

22 Q. And what are you seeking as a result
23 of this lawsuit?

24 MR. CIOLKO: Vague. You can answer,
25 if you can.

1 A. Sorry. Can you repeat the question?
2 There was an echo.

3 Q. Sure. What are you seeking through
4 this lawsuit?

5 A. I'm seeking a refund for the services
6 that I did not receive during the spring of 2020
7 that I came in expecting.

8 Q. And are you seeking a refund of
9 tuition or fees as opposed to tuition?

10 A. Fees.

11 Q. Let me ask you a couple background
12 questions.

13 Where did attend high school?

14 A. I went to Penn-Trafford High School.

15 Q. When did you graduate?

16 A. 2018.

17 Q. And did you play any sports in high
18 school?

19 A. I played softball and volleyball.

20 Q. And you also played softball at Penn;
21 is that correct?

22 A. Yes.

23 Q. And are you still on the softball
24 team?

25 A. Yes.

1 Q. When did you apply to college?

2 MR. CIOLKO: Objection; form. You can
3 answer.

4 A. December of 2017 was my acceptance.

5 MR. CIOLKO: Unless I instruct you not
6 to answer --

7 (Discussion held off the record.)

8 BY MR. KIDNEY:

9 Q. So did you not take a gap year; is
10 that correct?

11 A. I did not.

12 Q. And what colleges did you apply to?

13 A. Just Penn.

14 Q. You -- that was the only college you
15 applied to?

16 A. Yes.

17 Q. Did you apply early decision?

18 A. Yes.

19 Q. And was your plan, if you were not
20 accepted early decision, you would have applied to
21 other schools?

22 MR. CIOLKO: Objection to form and
23 speculation. You can answer.

24 A. Yes.

25 Q. Had you decided that -- you -- you

1 received notification in the middle of December
2 2017 that you had been accepted to Penn; is that
3 correct?

4 A. Yes.

5 Q. And in general, is the deadline to
6 apply to other colleges January 1st?

7 MR. CIOLKO: Objection; form,
8 speculation. You can answer.

9 A. I'm not sure.

10 Q. Had you formed a list of colleges that
11 you planned to apply to if you were not accepted to
12 Penn?

13 A. No.

14 Q. Had you been told by anybody at Penn
15 that you would likely be accepted prior -- let me
16 rephrase that.

17 Prior to receiving the official
18 notification from Penn in December, in the middle
19 of December of 2017, had you been told by someone
20 at Penn that you would likely be accepted?

21 MR. CIOLKO: Objection; form. You can
22 answer.

23 A. I received a likely letter from the
24 university earlier in the fall, but I'm not sure
25 when.

1 Q. Okay. Why did you -- why did you
2 decide on applying to Penn?

3 A. It has very high placement rates for
4 dental school, which is what I was assigned to be.
5 I was very interested in the student athlete
6 experience, the ability to network, to meet other
7 people, to grow my cultural awareness, and for the
8 endless opportunities in Philadelphia.

9 Q. Was the total cost charged a factor in
10 your decision?

11 A. Can you repeat the question?

12 Q. Was the total cost of attending Penn a
13 factor in your decision?

14 A. Yes.

15 Q. And tell me more about that. How did
16 that factor into your decision?

17 A. I'm a first generation college
18 student, and I'm responsible for paying for my own
19 education as well as all future education.

20 Q. Have your parents contributed to your
21 Penn education?

22 MR. CIOLKO: Objection to form. You
23 can answer.

24 A. No.

25 Q. And so -- well, we'll -- I'll -- we'll

1 come back to that.

2 Did it matter to you how the cost of a
3 Penn education was broken out by tuition and fees?

4 A. Yes.

5 Q. And tell me more. Why did that matter
6 to you and how did it matter?

7 A. Because at the end of the day, I was
8 responsible for both, and seeing where my money was
9 going was very important to me.

10 Q. Did it matter to you -- was the total
11 cost what you were really focused on as opposed to
12 whether the total cost was comprised more of
13 tuition than fees?

14 MR. CIOLKO: Objection; asked and
15 answered. But you can answer again.

16 A. I'm sorry. Can you repeat that?

17 Q. Sure. You -- what I'm trying to
18 understand is, I understand from your prior
19 response that the total cost of the Penn education
20 was important to you. Is that correct?

21 A. It was.

22 MR. CIOLKO: Objection; form. You can
23 answer.

24 A. It was my money regardless. So I was
25 interested in all aspects of it.

1 Q. Understood. And what I'm trying to
2 get at is, did it matter to you that the total cost
3 was comprised of fees versus tuition?

4 In other words -- let me give you an
5 example. If the university told you you had to pay
6 \$10,000 in a particular year, is it -- am I correct
7 in thinking that it didn't matter to you if that
8 \$10,000 went to tuition or to fees; what really
9 mattered is how much money you had to pay total?

10 MR. CIOLKO: I'm going to object as to
11 form as mischaracterizes prior testimony and asked
12 and answered. But you can -- you can answer.

13 A. I'm interested in the breakdown
14 because I was being charged for clinical fees,
15 off-campus housing, and just other fees for general
16 services. And those were what -- unfulfilled.

17 Q. Unfulfilled?

18 A. Yes.

19 MR. CIOLKO: I'm trying to move as far
20 away as I can.

21 BY MR. KIDNEY:

22 Q. Did you ever compare the amount of
23 fees -- the amount of the fees charged to Penn to
24 those of other schools while you were deciding
25 whether to apply to Penn versus other schools?

1 MR. CIOLKO: Objection; form. And
2 objection; mischaracterizes prior testimony. You
3 can answer.

4 A. Yes, I compared it to local state
5 schools.

6 Q. And what local state schools did you
7 compare it to?

8 A. None in particular. I was just
9 looking in general, but not with the intent to
10 apply.

11 Q. Did you -- were you -- did you compare
12 it to Penn State?

13 MR. CIOLKO: Objection; asked and
14 answered. You can answer.

15 A. No.

16 Q. What materials, if any, did you review
17 in making your decision about applying to the
18 University of Pennsylvania?

19 A. I reviewed the cost of attendance, the
20 average cost of living, the placement rates of
21 dental school, and potential majors and minors.

22 Q. And I'm hearing a lot of echoes. Can
23 you say the last part again?

24 A. And potential majors and minors.

25 Sorry. That was really --

1 Q. Whoa.

2 MR. KIDNEY: Ed, are you -- just
3 trying to think --

4 MR. CIOLKO: Actually, I was muted
5 then.

6 (A break was taken.)

7 BY MR. KIDNEY:

8 Q. So, Miss Nedley, were you recruited by
9 any other schools, other than Penn, for your
10 softball abilities?

11 A. Yes.

12 Q. What other schools?

13 A. The University of Pittsburgh and
14 Georgetown.

15 Q. And why did you decide to apply to
16 Penn rather than those two schools?

17 MR. CIOLKO: Objection to the extent
18 it's been asked and answered. But you can answer.

19 A. Georgetown closed their dental school.
20 And the University of Pittsburgh, their dental
21 school is not as well renowned as the University of
22 Pennsylvania's. And the University of Pennsylvania
23 would set me up or put me in the best position to
24 see my dreams of attending a top dental school.

25 Q. So -- and just to be clear, I'm -- my

1 question was about attending an undergraduate
2 constitution, not dental school. Is that how you
3 understood it?

4 A. Yes. And depending on where my
5 undergrad education is from sets me up for the best
6 spot to go to my dream dental school.

7 Q. Okay.

8 (Discussion held off the record.)

9 BY MR. KIDNEY:

10 Q. We were having some audio problems.
11 And I just want to make sure you had finished the
12 answer to the last question I had asked you.

13 I asked you: What materials did you
14 review in making your decision about what
15 university to attend? And had you finished your
16 response to that?

17 A. I did.

18 Q. Okay. When did you begin your studies
19 at the University of Pennsylvania?

20 A. In the fall of 2018.

21 Q. And what's your major?

22 A. Health and society.

23 Q. And have you ever changed majors?

24 A. Yes.

25 Q. What were your -- what was your major

1 prior to health and societies?

2 A. Biology.

3 Can I clarify? I was -- I came in
4 with the intent of biology, but I did not
5 officially declare until the end of my sophomore
6 year when I went with health and society.
7 Technically I did not change majors on paper.

8 Q. Okay. And why did you decide to
9 pursue health and societies rather than biology?

10 A. I was interested in looking at health
11 from a sociological and historical perspective and
12 anthropological, and health and societies put me in
13 the best position to do that.

14 Q. Your undergrad degree --

15 MR. CIOLKO: Would it be okay with you
16 if miss Nedley wants to come back to a question she
17 already answered to clarify an answer? Are you
18 okay if she did that during the deposition?

19 MR. KIDNEY: Sure.

20 MR. CIOLKO: Okay. Thank you. Sorry
21 about that.

22 BY MR. KIDNEY:

23 Q. You're graduating in May of this year;
24 is that correct?

25 A. Yes.

1 Q. And so your undergraduate studies will
2 take you four years; is that correct?

3 A. Yes.

4 Q. Eight semesters?

5 A. Yes.

6 Q. And your plan after you graduate is to
7 attend dental school; is that correct?

8 A. Yes.

9 Q. And where are you attending dental
10 school?

11 A. The University of California, San
12 Francisco.

13 Q. And you earlier had referred to your
14 dream dental school. Is that your dream dental
15 school?

16 A. Yes.

17 Q. Was that your first choice dental
18 school?

19 A. Yes.

20 Q. Where else did you apply to dental
21 school?

22 A. University of Pennsylvania, University
23 of Pittsburgh, Temple, Boston University, Columbia
24 University --

25 Q. And --

1 A. -- University of Maryland, Touro
2 College of Dental Medicine, Lake Erie College of
3 Medicine, A.T. Still University, the University of
4 Southern California, Northwestern University.

5 Q. And which of -- which of the schools
6 were you accepted?

7 A. University of California, San
8 Francisco, University of Pittsburgh, University of
9 Pennsylvania, Boston University.

10 Q. And what made you decide on the
11 University of California, San Francisco?

12 A. Its tuition and fees are \$150,000 less
13 than University of Pennsylvania. Those were my
14 final two. It's a pass/fail system. It's ranked
15 higher than the University of Pennsylvania. And
16 it's been the top 25 -- or sorry -- the number 1
17 research-funded university in the last 25 years.
18 And I was excited to grow my culture and make new
19 connections on the West Coast.

20 Q. What fees does the University of
21 California, San Francisco charge as opposed to
22 tuition?

23 A. Access to clinicals, dental tools,
24 housing. And I'm not sure of the rest off the top
25 of my head.

1 Q. And off the top of your head, do you
2 know what the tuition is at the University of
3 California, San Francisco for one year?

4 MR. CIOLKO: I'm going to object as to
5 speculation, form, and just note a general
6 relevance objection to this line of questioning.
7 You can answer.

8 A. I do not know.

9 Q. And off the top of your head, do you
10 know the total fees that the University of
11 California, San Francisco will charge you next year
12 for an academic year?

13 MR. CIOLKO: Same objection. You can
14 answer.

15 A. I do not know.

16 Q. So let me direct you to a document
17 that you received this morning. It is the fourth
18 document in the ZIP file, and it's called docket
19 26-4, financial responsibility statement for Emma
20 Nedley. And I'm going to eventually have this
21 exhibit marked as Exhibit Number 3. And tell me
22 when you finished taking a look at that document.

23 MR. CIOLKO: Take your time.

24 (Exhibit 3 was marked.)

25 THE WITNESS: Okay.

1 BY MR. KIDNEY:

2 Q. Have you read it now, Miss Nedley?

3 A. Yes.

4 Q. Do you -- prior to today, do you
5 recall seeing this document before?

6 A. Yes. Several years ago.

7 Q. And tell me about that. What is your
8 recollection -- what was the context of when you
9 saw it several years ago?

10 MR. CIOLKO: Objection; form. You can
11 answer.

12 A. I don't remember.

13 Q. Do you recall that you -- the
14 university asked you to review this document and
15 asked whether you agreed with it, indicating that
16 you had read and accepted the financial
17 responsibility statement?

18 MR. CIOLKO: Objection; form. Assumes
19 facts not in evidence. But you can answer.

20 A. Yes.

21 Q. And does it refresh your recollection
22 if I represent to you that Penn's records indicate
23 that you pressed the I agree button on August 20th,
24 2019?

25 MR. CIOLKO: Objection; form. You can

1 answer.

2 A. Yes.

3 Q. And does that sound about right to
4 you?

5 A. Yes. That would be before I started
6 classes.

7 Q. Do you know what the Penn book is?

8 A. No, not by that name.

9 Q. Do you know the name of a book that
10 contains undergraduate regulations or requirements?

11 MR. CIOLKO: Objection; form.

12 Objection; speculation. You can answer.

13 A. No, because everything was sent
14 virtually.

15 Q. How about prior to the pandemic?

16 A. I'm not sure.

17 MR. CIOLKO: Same objection.

18 Q. Do you recall ever reviewing any
19 policies of the University of Pennsylvania
20 regarding the cancellation of activities for
21 classes prior to the pandemic?

22 A. No.

23 Q. As part of your enrollment in -- for
24 the spring 2020 semester, do you recall signing or
25 agreeing to anything other than the financial

1 responsibilities statement?

2 MR. CIOLKO: Objection; form, vague.

3 You can answer.

4 A. No.

5 Q. You were a full-time student during
6 the spring 2020 semester; is that correct?

7 A. Yes.

8 Q. And how many courses were you taking?

9 A. Between four and six, but I'm not sure
10 of the exact credit number.

11 Q. Did you withdraw from any classes
12 during the spring 2020 semester?

13 A. No.

14 Q. Before March 16th, 2020, where were
15 you living?

16 A. In an apartment in Philadelphia.

17 Q. And what was the address of the
18 apartment?

19 A. [REDACTED].

20 MR. CIOLKO: Michael, are you done
21 with that exhibit?

22 MR. KIDNEY: Yes.

23 MR. CIOLKO: Okay. Just saving space.
24 I can't see you.

25 MR. KIDNEY: Okay.

1 BY MR. KIDNEY:

2 Q. Were you living with anybody else?

3 A. Yes.

4 Q. Who were you living with?

5 A. Three roommates.

6 Q. What -- can you give me their names,
7 please?

8 MR. CIOLKO: I'm going to object to
9 form and relevance. You can answer.

10 A. [REDACTED],
11 and [REDACTED]. (phonetically)

12 Q. And how many bedrooms did you have in
13 your apartment?

14 A. Four.

15 Q. So you each had your own bedroom?

16 A. Yes.

17 Q. Is [REDACTED] a highrise?

18 A. Yes.

19 Q. Is that owned by the university or is
20 it a privately owned building?

21 A. I believe privately owned.

22 Q. How did you find that apartment?

23 MR. CIOLKO: I object as to form, as
24 to relevance. But go ahead.

25 A. Stephanie and Reagan had lived there

1 the year prior.

2 Q. And are they all on the softball team,
3 your three roommates?

4 A. No.

5 MR. CIOLKO: Same objection. Go
6 ahead.

7 A. No. Only Stephanie.

8 Q. And when did you start living there?

9 MR. CIOLKO: Objection; form. You can
10 answer.

11 A. August of 2019.

12 Q. And after Penn transitioned to remote
13 education in mid-March 2020, where did you live for
14 the remainder of the spring 2020 semester?

15 A. I stayed in my apartment for a few
16 days before my coach and the university suggested
17 to get out of Philadelphia. And I returned to my
18 home in Pittsburgh, the suburbs of Pittsburgh.

19 Q. Did you remember what day you left
20 Philadelphia?

21 A. No.

22 Q. And how did you get from Philadelphia
23 to your home in the suburbs of Pittsburgh?

24 A. I rented a vehicle.

25 Q. And your three roommates, what did

1 they do?

2 MR. CIOLKO: Objection; form.

3 Objection; relevance. You can answer.

4 A. They all also left the city, but I'm
5 not sure of their transportation method.

6 Q. Did you receive any financial relief
7 from the university related to the cost of your
8 residence prior to mid March?

9 MR. CIOLKO: Objection; form. You can
10 answer.

11 A. You're asking if I received aid for my
12 housing?

13 Q. Yes.

14 A. Not during the 2019-2020 school year.
15 But yes during 2018-2019.

16 Q. And in 2018 to 2019, did you live on
17 campus?

18 A. Yes. I was required to.

19 Q. Why were you required to? Because you
20 were then a first-year?

21 A. Yes.

22 Q. And so the -- the 2019 to 2020 school
23 year you were a sophomore; is that correct?

24 A. Yes.

25 Q. Or second-year?

1 A. Second-year, yes.

2 MR. CIOLKO: Are you allowed to --

3 THE WITNESS: I have no clue.

4 Q. Let me show you another document,
5 which in the ZIP file that you received -- one,
6 two, three, four, five, six, seven, eight -- it
7 looks like it's the eighth document. And it's
8 called Nedley responses to RFAs. Do you see that
9 document?

10 A. Yes.

11 MR. KIDNEY: Okay. I'm going to ask
12 that this be marked as Exhibit Number 4.

13 (Exhibit 4 was marked.)

14 BY MR. KIDNEY:

15 Q. And when you open the document, let me
16 direct your attention to page -- page 4, and you'll
17 see a request for admission number 1 and a
18 response. And I'd like you to read that request
19 and response. And I'm looking specifically at the
20 request that says, admits that you did not withdraw
21 or seek to withdraw from the spring 2020 semester.

22 A. I should read that again?

23 Q. The request says that, admits you did
24 not withdraw or seek to withdrawal from the spring
25 2020 semester. Do you see that?

1 A. Yes.

2 Q. And -- and can you read the response?

3 A. Plaintiff admits this request in as
4 much as there was no realistic possibility or
5 option for her to do so.

6 Q. Do you agree with that response?

7 A. Yes.

8 Q. And can you explain what you mean by,
9 there was no possibility or realistic option to
10 withdraw?

11 A. I financially could not return home
12 without any job and to just sit and wait for
13 education again when it was no longer virtual. It
14 did not make sense for me to leave this prestigious
15 undergrad institution.

16 And as far as my future education, I
17 didn't want to be a dentist when I was 35. I
18 didn't want to wait even longer, because after
19 undergrad, I had at least seven more years of
20 school.

21 Q. Do you recognize this document, Nedley
22 responses to RFAs?

23 A. Yes.

24 Q. Have you reviewed it before?

25 A. Yes.

1 Q. Did you assist in preparing the
2 responses?

3 A. Yes.

4 Q. And let me direct your attention to
5 two other documents. One is called Emma Nedley
6 award notice.

7 A. I'm not sure I see that. Is it in the
8 ZIP file?

9 MR. CIOLKO: I don't see that either,
10 Michael.

11 MR. KIDNEY: Hold on one second.

12 MR. CIOLKO: Is it one of the ones
13 that says plaintiff 000 --

14 MR. KIDNEY: Yes. It says -- in the
15 ZIP file, this one is called -- the last three
16 digits are 866.

17 MR. CIOLKO: Got it.

18 THE WITNESS: Yes.

19 MR. CIOLKO: Yes.

20 MR. KIDNEY: And I'm going to ask that
21 this document be marked as Exhibit Number 5.

22 (Exhibit 5 was marked.)

23 BY MR. KIDNEY:

24 Q. And then I'm also going to ask you
25 about the document that ends in 865, which is --

1 when you open it, IT'S A -- it's not a PDF. It's
2 an Excel. And when you open it up, it says, Emma
3 Nedley tuition account. Do you have that document?

4 A. Yes.

5 MR. KIDNEY: Okay. And I'm going to
6 ask that this document be marked as Exhibit Number
7 6.

8 (Exhibit 6 was marked.)

9 MR. CIOLKO: Which is the second
10 document Excel spreadsheet?

11 A. Yes.

12 BY MR. KIDNEY:

13 Q. So let me -- actually, I think there's
14 an even easier document to deal with here.

15 A. Please.

16 MR. CIOLKO: You exceed your limit,
17 Michael.

18 MR. KIDNEY: I'm sorry?

19 MR. CIOLKO: Two is your limit. I'm
20 running out of space.

21 MR. KIDNEY: Understood.

22 Q. I'm going to go back -- so Excel has a
23 lot of lines. So I'm going to instead direct you
24 to one of the documents you produced, Miss Nedley.
25 So if you go back to the Nedley production, which

1 is one, two, three, four -- it's the sixth document
2 in the PD -- in the ZIP file.

3 A. Yes.

4 Q. Open that -- open that document up.
5 And again, just to make the transcript clear, this
6 will -- this document, this PDF will be marked as
7 Exhibit 2.

8 And I want you to scroll in that
9 document to Nedley 3. So on the lower right-hand
10 corner, there's what lawyers call a Bates stamp.
11 And it says Nedley 0003.

12 A. Yes.

13 Q. Okay. So on that document, do you see
14 there is a line, one, two, three, four -- five
15 lines down that says, Penn grant. The date is
16 1/21/20 and the amount is 21,850 -- I'm sorry,
17 \$21,851. Do you see that?

18 A. Yes.

19 Q. What is a Penn grant?

20 A. That is money from the university
21 based on my financial need.

22 Q. And you do not have to repay that
23 grant; is that correct?

24 A. Correct.

25 Q. And you said that's money from the

1 university based on your financial need. Did I get
2 that right?

3 A. Yes.

4 MR. CIOLKO: Asked and answered. You
5 can clarify -- you can confirm.

6 BY MR. KIDNEY:

7 Q. Is -- would you agree with me that
8 another way of saying that is, this is a need-based
9 grant as opposed to a merit-based grant?

10 A. Can you --

11 MR. CIOLKO: Objection; speculation.
12 But you can answer or ask for clarification.

13 A. Can you define what you mean by merit
14 based, you mean based on academic or --

15 Q. Yes. A merit-based grant -- by
16 merit-based, I mean a grant that is based solely on
17 merit and does not look at financial need.

18 MR. CIOLKO: Objection; speculation
19 and form. But you can answer.

20 A. This was based on financial need.

21 Q. Did you have to submit an application
22 for this grant?

23 A. Yes.

24 Q. And is that the FAFSA?

25 A. There was the FAFSA, and then Penn had

1 their own additional supplement. And then I also
2 had to submit through the college board, which is
3 basically a FAFSA equivalent.

4 Q. And do you have a copy of those
5 documents still today?

6 A. I don't know. I would imagine. But
7 not on me.

8 Q. Okay. I'd ask that when the
9 deposition is finished, that you send those to your
10 counsel, please, Mr. Ciolko.

11 MR. CIOLKO: If you can find them,
12 I'll take a look at them and I'll discuss with
13 Mr. Kidney whether or not they're appropriately
14 appropriate for production. But go ahead.

15 BY MR. KIDNEY:

16 Q. So now let me direct you to the award
17 notice, which, again, is going to be marked as
18 Exhibit 5. And that is ending in 866. Do you have
19 that document in front of you?

20 A. Yes.

21 Q. Do you see that the Penn -- do you see
22 where the document says, the Penn grant is in the
23 full amount of \$43,702 for the 2019 to 2020
24 academic year?

25 A. Yes.

1 Q. Is -- did you receive that amount for
2 the 2019-2020 academic year?

3 A. Yes.

4 Q. And did you receive half that amount
5 for the spring 2020 semester?

6 A. Yes.

7 Q. And do you see on -- give me a second.
8 The document disappeared on me. Just let me pull
9 it back up.

10 Okay. Do you see on this document
11 there is a line -- there is a line that says, total
12 direct cost? And then there's another line that
13 says, total indirect cost.

14 MR. CIOLKO: Where are we looking,
15 Michael?

16 MR. KIDNEY: This is -- we're still on
17 the award letter, which is -- the last digits are
18 866.

19 MR. CIOLKO: I was wondering where on
20 the document.

21 MR. KIDNEY: Under the red -- if you
22 -- if you go --

23 MR. CIOLKO: I got it. I got it.

24 MR. KIDNEY: -- half -- okay.

25 MR. CIOLKO: Thank you.

1 BY MR. KIDNEY:

2 Q. Do you see those two lines, Miss
3 Nedley, total direct cost and total indirect cost?

4 A. Yes.

5 Q. What is the difference -- what's your
6 understanding of the difference between direct cost
7 and indirect cost?

8 A. Direct cost will be owed no matter
9 what because those go directly to the university.
10 Whereas indirect cost is based on averages and is
11 what they anticipate me spending, yet I may not
12 spend all of that money.

13 Q. And the indirect costs do not go to
14 the university; is that correct?

15 MR. CIOLKO: Objection; form and
16 speculation. But go ahead. You can answer.

17 A. As far as transportation, dining,
18 housing, those do not go to the university. But
19 books and supplies are -- for me, were normally
20 bought at the book store. So it does eventually
21 end back up at the university.

22 Q. And the personal expenses they are not
23 charged by the university; is that correct?

24 A. They're not charged directly by the
25 university, but at the end of the day, most of the

1 money goes back to the university.

2 Q. I'm not following you. So how do --
3 can you give me an example of a personal expense
4 that is not charged by the university but goes back
5 to the university?

6 MR. CIOLKO: I'm going to object as to
7 form and as to assuming facts that are not in
8 evidence. But you can answer.

9 A. For example, paying to be part of
10 clubs, that contributes to my undergrad experience,
11 as far as the pre-dental societies, but that's part
12 of my personal expense.

13 Q. So let me direct you to your -- the
14 student account page that you produced.

15 A. Which document is this?

16 Q. So this is in the -- in the -- in the
17 Nedley production. Let's go back to the same page
18 we were looking at, which is marked Nedley000003.

19 MR. CIOLKO: Michael, can we close out
20 the other pages?

21 MR. KIDNEY: Yes.

22 MR. CIOLKO: Thank you.

23 BY MR. KIDNEY:

24 Q. So do you have that document in front
25 of you?

1 A. Yes.

2 Q. So do you see where it says dining
3 club activities plan for -- twenty -- 4/22/20 and
4 the amount is \$806.23?

5 A. Yes.

6 Q. Do you see that, Miss Nedley?

7 A. Yes.

8 Q. What is that for?

9 A. My dining plan through the university.

10 Q. And what was your dining plan? Was it
11 a certain number of meals a week?

12 A. Yes.

13 Q. How many meals a week?

14 MR. CIOLKO: Objection; form. You can
15 answer.

16 A. I'm not sure because I got a different
17 dining plan every year.

18 Q. And did you receive a refund of -- for
19 the dining plan after the pandemic hit in the
20 spring of 2020?

21 A. I'm not sure.

22 Q. Do you see the next line that says,
23 Penn grant COVID-19 expense, 420.20 and negative
24 465?

25 A. Yes.

1 Q. What is that for?

2 A. My transportation back to Pittsburgh.

3 Q. So did the university pay for your
4 rental car back to Pittsburgh?

5 A. Yes.

6 MR. CIOLKO: Objection; form. You can
7 answer.

8 A. Yes.

9 Q. And did they pay any other expenses in
10 connection with your transportation back to
11 Pittsburgh?

12 A. No.

13 Q. In the -- do you see where it says,
14 plus direct loan, negative \$11,768?

15 A. Yes.

16 Q. What is that?

17 A. A loan I took for my education.

18 Q. And did you sign that loan yourself or
19 did your -- alone or did your parents fund that
20 loan with you?

21 A. I believe my parents signed it with
22 me.

23 Q. And do you know -- as you sit here
24 today, do you have an understanding of whether you
25 are obligated to pay that loan back as opposed to

1 your parents?

2 A. I'm obligated.

3 Q. And what's your basis for saying that?

4 MR. CIOLKO: Objection; form. Call
5 for legal conclusion. You can answer.

6 A. My parents told me I'm responsible for
7 my education for undergrad and dental school.

8 Q. And I'm sorry. I didn't hear the last
9 thing you said. You said your parents told you you
10 were responsible for your education, undergrad and
11 what?

12 A. Dental school.

13 Q. Okay. Have you ever -- has anybody
14 ever told you --

15 MR. CIOLKO: Michael, Michael, after
16 this question, can we take a break? After this
17 question.

18 MR. KIDNEY: Sure.

19 BY MR. KIDNEY:

20 Q. Has anybody ever told you that plus
21 loans, when they're taken out for an undergraduate
22 education, the government will not expect the
23 student to pay back the loan, only the parents?

24 A. Yes. But that was not decided between
25 my parents and I.

1 Q. Understood.

2 MR. KIDNEY: Happy to take a break.

3 (A break was taken.)

4 MR. KIDNEY: Back on the record.

5 A. Do you mind if -- (indiscernible)

6 Q. Say that again.

7 A. Do you mind if I clarify one thing
8 real quick?

9 Q. Sure.

10 A. So you had asked how many semesters
11 I've been enrolled in the university. I said
12 eight, but I'd also taken a summer class in the
13 summer of 2020. So I don't know if that
14 constitutes as nine or eight and a half.

15 Q. Understood. Thank you for that
16 clarification. I was actually going to ask you
17 next if you had taken any courses in the summer of
18 2020.

19 What course did you take?

20 A. I took Spanish.

21 Q. And where were you physically located
22 while you took that course?

23 A. I was at my home in the suburbs of
24 Pittsburgh.

25 Q. And in the fall of 2020, where were

1 you physically located for that semester?

2 A. I was located in an apartment in
3 Philadelphia.

4 Q. And the fall 2020 semester was a
5 virtual semester; is that correct?

6 A. Yes.

7 Q. All your courses were remote in the
8 fall of 2020?

9 A. Yes.

10 Q. And why did you decide to return to
11 Philadelphia for the fall 2020 semester even though
12 the semester was remote?

13 A. I was already in a lease for my
14 apartment, as I had signed it roughly a year in
15 advance. And I do not have a designated spot at
16 home to do any schoolwork. And all libraries, et
17 cetera, were closed.

18 Q. All libraries in Pittsburgh were
19 closed, do you mean?

20 A. In Pittsburgh and in Philadelphia.
21 But in Philadelphia I had a desk to do work.

22 Q. And where did you do work for the last
23 portion of the spring 2020 semester when you were
24 at home in the suburbs of Pittsburgh?

25 A. On my bedroom floor or at my kitchen

1 table.

2 Q. And how about during the summer of
3 2020?

4 A. I was also at home.

5 Q. And were you again working at the
6 kitchen table or in your bedroom?

7 A. Yes. But at that time, my hometown
8 had started to open up as well, So I was able to go
9 to the local library.

10 Q. And then in the fall of 2020, did your
11 -- did the local library close?

12 MR. CIOLKO: Objection to form.

13 Q. After reopening?

14 A. No.

15 Q. So let me direct you to your
16 production. This is Nedley production. We have
17 been looking at page 3. Now I would like to direct
18 you to the next page, page 4. And, again, this
19 document will be marked as Exhibit Number 2.

20 And I'm looking at the page that, at
21 the very bottom, says Nedley000004. And at the top
22 it says, payment history for Emma Nedley. Do you
23 have that in front of you?

24 A. Yes.

25 Q. The very first line says, Penn pay,

1 payment received, 5/15/20 in the amount of \$4,493.

2 Do you see that?

3 A. Yes.

4 Q. Is it your understanding that that
5 represents an amount paid by your family to Penn?

6 A. That was paid by me to Penn.

7 Q. By you personally?

8 A. Yes.

9 Q. And was that for your summer course in
10 the summer of 2020?

11 A. Yes.

12 Q. And where did you get the money for
13 that -- for that payment?

14 MR. CIOLKO: Objection; form. You can
15 answer.

16 A. I had been working for my father's
17 landscaping company since I was about 10 years old
18 and I've been saving up.

19 Q. When I -- when -- there are other
20 payments that were made to the University of
21 Pennsylvania throughout your four years at the
22 University of Pennsylvania; is that correct?

23 MR. CIOLKO: Objection; form. Assumes
24 facts not in evidence. But you can answer.

25 A. I'm confused if that was a question.

1 BY MR. KIDNEY:

2 Q. So did you make other payments to the
3 University of Pennsylvania during your four years
4 at the University of Pennsylvania?

5 A. Other than this \$4,493?

6 Q. Yes.

7 A. Yes.

8 Q. Approximately how much have you paid
9 to the University of Pennsylvania over your four
10 years there?

11 MR. CIOLKO: Same objection. You can
12 answer.

13 A. I'm unsure.

14 Q. And approximately how much have your
15 parents paid during your four years at the
16 University of Pennsylvania?

17 MR. CIOLKO: Same objection. You can
18 answer.

19 A. I'm unsure. As of the end of the day,
20 it's my responsibility.

21 Q. I'm not asking for an exact amount,
22 Miss Nedley. I'm asking for approximation.

23 MR. CIOLKO: Objection; asked and
24 answered.

25 BY MR. KIDNEY:

1 Q. Approximately how much money from you
2 paid -- have your parents paid for your four years
3 at the University of Pennsylvania?

4 MR. CIOLKO: Same objection. You can
5 answer.

6 A. I'm unsure.

7 Q. Have they paid more than zero? Are
8 you unsure of that?

9 MR. CIOLKO: Objection; form. You can
10 answer.

11 A. They've contributed to my dining plan.

12 Q. And approximately how much have they
13 contributed?

14 MR. CIOLKO: Objection; asked and
15 answered. But you can answer.

16 A. Well, if we looked at the dining plan
17 before, it was \$800 for spring of 2020.
18 Approximately \$800 for fall of 2020 -- sorry, fall
19 of 2019. And then I'm currently -- I was on the
20 dining plan my junior year, which was nonexistent
21 in the fall. So that would have been fall of 2020.
22 And spring of '21, I was on a dining plan. And I'm
23 currently on a dining plan in the fall. And I've
24 yet to decide if I will be on a dining plan in the
25 spring of 2022.

1 Q. And your parents paid for all of the
2 dining plan charges; is that correct?

3 A. As far as I can remember, yes.

4 Q. And did they pay for anything else, as
5 far as you can remember, that was in terms of money
6 paid to the University of Pennsylvania?

7 MR. CIOLKO: Objection; asked and
8 answered. You can answer.

9 A. Not to the University of Pennsylvania.

10 Q. And to the extent that the University
11 of Pennsylvania charged other amounts, other than
12 for the dining plan to your family, who paid for
13 that?

14 MR. CIOLKO: Objection; asked and
15 answered. You can answer.

16 A. Can you repeat the question, please?

17 Q. Other than the amounts paid for the
18 dining plan, to the extent that the University of
19 Pennsylvania charged your family certain amounts,
20 who paid those amounts?

21 MR. CIOLKO: Objection; form. Asked
22 and answered. You can answer.

23 A. My great aunt and great uncle had
24 established a -- I'm not sure of the name of the
25 fund, but that has paid my senior year thus far.

1 Q. And did your great aunt and great
2 uncle pay for any charges imposed to the University
3 of Pennsylvania prior to your senior year?

4 A. I don't believe so.

5 Q. Let me direct you back, in light of
6 your answer, to the awards letter that we earlier
7 looked at. This is in the ZIP file, and it is
8 ending in 866. Tell me when you pull that up.

9 A. Yes.

10 MR. CIOLKO: Hold on.

11 A. Hold on one second. Okay.

12 Q. Okay. So do you see at the -- at the
13 bottom of 866, it says your estimated net cost per
14 2019 to 2020, and it says, total net cost, 24,620.

15 MR. CIOLKO: Objection. I'm going to
16 ask maybe for you to rephrase. That's not what
17 this document says or -- either I misheard you or
18 -- are you speaking about expected family
19 contribution?

20 MR. KIDNEY: I am speaking of expected
21 family contribution. But I'm looking at your -- at
22 -- if you're looking at 867, Ed, you're one page
23 ahead.

24 MR. CIOLKO: Okay. Of the -- you're
25 866, last line?

1 MR. KIDNEY: Right.

2 MR. CIOLKO: Thank you.

3 Did you get that?

4 THE WITNESS: This?

5 MR. CIOLKO: Yeah.

6 THE WITNESS: Okay.

7 MR. KIDNEY: I'm sorry, Michael.

8 Thank you.

9 BY MR. KIDNEY:

10 Q. So do you see where it says, total net
11 cost, 24,620?

12 A. Yes.

13 Q. Okay. And do you see on the next
14 page, your expected family contribution for 2019 to
15 2020, it says, parent contribution, 21,150?

16 A. Yes.

17 Q. Do you see where it says that?

18 A. Yes.

19 Q. Do you see student summer savings,
20 3200?

21 A. Yes.

22 Q. Okay. So let me ask you this.

23 Is it your testimony, Miss Nedley --
24 well, let me -- let me begin this way.

25 Student summer savings, \$3200. Did

1 you pay that \$3200 for the 2019/2020 year? Did you
2 personally pay that?

3 MR. CIOLKO: I'm going to object
4 because it misrepresents the documents itself. And
5 if you can answer, go ahead.

6 MR. KIDNEY: How does that
7 misrepresent the document, Ed?

8 MR. CIOLKO: I believe that's expected
9 family contribution, but that does not mean that
10 Miss Nedley -- that that is actually how the
11 breakdown was for the cost themselves. So to ask
12 whether she paid that particular portion -- it's
13 not a bill. This is just an expected family
14 contribution and this is how it's broken down.

15 So is -- to ask whether -- it's not
16 like you're asking about an invoice. You're asking
17 about an expectation.

18 MR. KIDNEY: I -- I did -- I disagree.
19 I asked whether she paid \$3200. She might have
20 paid more than that, but I'm beginning with one
21 question at a time.

22 BY MR. KIDNEY:

23 Q. So, Miss Nedley, do you see where it
24 says, student summer savings, 3200?

25 A. Yes.

1 Q. Did you pay \$3200 to the University of
2 Pennsylvania, you personally?

3 MR. CIOLKO: Objection.

4 THE WITNESS: Huh?

5 MR. CIOLKO: You can answer.

6 A. Yes.

7 Q. And did you pay that from summer
8 savings?

9 MR. CIOLKO: Objection; form. You can
10 answer.

11 A. Not that particular summer.

12 Q. Why not --

13 A. That was --

14 Q. -- that particular summer?

15 A. I've about working --

16 Q. This --

17 A. For years -- I've been working for
18 years. So this money was not directly this summer,
19 not all of it.

20 Q. So the \$3200 that you were expected to
21 contribute to the University of Pennsylvania, you
22 contributed that money, but it did not come from --
23 from a summer job in the summer of 2019; is that
24 correct?

25 MR. CIOLKO: Objection;

1 mischaracterizes the testimony. But you can
2 answer.

3 A. Some of it was from that summer, but
4 some of the money was from previous work, also.

5 Q. Okay. Then do you see the next line
6 that says \$270?

7 A. Yes.

8 Q. And next to that it says, student
9 assets?

10 A. Yes.

11 Q. At some point in time, did the
12 University of Pennsylvania ask you what your
13 student assets were; in other words, how much you
14 had saved up?

15 MR. CIOLKO: Objection; form. You can
16 answer.

17 A. Yes.

18 Q. And is it your understanding that the
19 University of Pennsylvania expected you to
20 contribute a portion of your assets to your
21 education?

22 A. Yes.

23 Q. And is it your understanding that the
24 \$270 they expected you to contribute was calculated
25 as a portion of the assets that you had reported to

1 them?

2 MR. CIOLKO: Objection; speculation.

3 You can answer.

4 A. Can you repeat the question?

5 Q. Yes. One second.

6 Is it your understanding that the \$270
7 that the University of Pennsylvania expected you to
8 contribute from your assets was calculated as a
9 percentage of the assets that you had reported to
10 them?

11 MR. CIOLKO: Same objection. You can
12 answer.

13 A. No. I'm not sure if it was a
14 percentage, or how this was calculated.

15 Q. So let me direct your attention to
16 parent contribution, 21,150. Do you see that?

17 A. Yes.

18 Q. Is it your testimony -- I want to make
19 sure I understand.

20 You had earlier told me that your
21 parents paid for the dining fees to the University
22 of Pennsylvania; is that correct?

23 MR. CIOLKO: Objection to the extent
24 it mischaracterizes testimony. But you can answer.

25 MR. KIDNEY: How does that

1 mischaracterize the testimony?

2 THE WITNESS; yes.

3 MR. KIDNEY: No, let's stop. How did
4 that --

5 MR. CIOLKO: Whether she testified
6 that the parents had paid all of the dining fees
7 for prior semesters. So, obviously, Miss Nedley
8 can answer.

9 BY MR. KIDNEY:

10 Q. Okay. You can answer, Miss Nedley.

11 A. Can you repeat the question?

12 Q. Sure. I want to make sure I
13 understand your prior testimony correctly.

14 Am I correct in saying that you had
15 earlier told me that your parents paid for the
16 dining fees paid to the University of Pennsylvania?

17 A. Yes.

18 Q. So is it -- and is it your testimony
19 that you paid the \$21,150 parent contribution,
20 other than the dining fees?

21 MR. CIOLKO: I'm going to lodge the
22 same objection as vague. This is not a bill. But
23 you can answer, if you think you can.

24 A. I'm not sure.

25 Q. Okay. Let me -- okay. I'll circle

1 back on that later. Let me move on to Pennsylvania
2 state grant.

3 What is a Pennsylvania state grant?

4 A. That was money from the state based on
5 financial need.

6 Q. You do not have to pay that; is that
7 correct?

8 A. Correct.

9 MR. CIOLKO: Michael, you're coming
10 over a little muffled.

11 MR. KIDNEY: Is that any better?

12 MR. CIOLKO: That's better. Thank
13 you.

14 MR. KIDNEY: Okay.

15 BY MR. KIDNEY:

16 Q. Did you have to submit a application
17 for that grant?

18 A. Yes.

19 Q. What did the application ask for?

20 A. All financial records.

21 Q. Do you have a copy of that
22 application?

23 A. I'm not sure.

24 MR. CIOLKO: I'll object only because
25 I thought it was asked and answered, but I'm not

1 sure, so I want to lay the objection down. I want
2 you to answer.

3 BY MR. KIDNEY:

4 Q. I ask, Miss Nedley, that you search
5 for that today, and if you have it, you send that
6 to your counsel.

7 MR. CIOLKO: If she has that, I will
8 get that over to you, Michael.

9 MR. KIDNEY: Thank you.

10 BY MR. KIDNEY:

11 Q. So do you still have the award notice
12 in front of you, which is 866 -- it ends in 866?

13 A. Yes.

14 MR. CIOLKO: Yeah. That one.

15 BY MR. KIDNEY:

16 Q. Do you see there's a reference to
17 federal work study job?

18 A. Yes.

19 Q. What is a federal work study job?

20 A. Jobs that are through the university.
21 But I believe the money comes from the federal
22 government.

23 Q. And what was your potential work study
24 job during the 2019-2020 year?

25 A. I'm a tutor at the Marcks Family

1 Center -- it changed names -- Marks Family Center
2 for Excellence in Writing. And I also worked all
3 of the athletic events for the university,
4 including Penn relays.

5 Q. And how much did you make through
6 those jobs during the 2019 to 2020 year?

7 A. I'm not sure of the exact amount.

8 Q. Approximately?

9 A. \$3,000.

10 Q. Is anyone making payments on the plus
11 direct loans that have been taken out on your
12 behalf?

13 A. Has anyone?

14 Q. Yes.

15 A. No.

16 Q. Let me direct you back to your
17 production page Nedley 000003. Very first line is
18 refund, 3916.27. Do you see that?

19 A. So this is Exhibit 2, page -- page
20 0003. At the top, it says, student account, spring
21 2020 account activity. And I'm focused on the very
22 first line, refund, 423.20 in the amount of
23 \$3,916.27. Do you see that, Miss Nedley?

24 Miss Nedley, are you still looking for
25 this? Miss Nedley, can you still hear us?

1 (Discussion held off the record.)

2 MR. CIOLKO: I don't know what

3 happened.

4 MR. KIDNEY: We thought you were

5 really studying one line.

6 THE WITNESS: I saw your mouth moving,

7 but nothing was coming out.

8 BY MR. KIDNEY:

9 Q. So, Miss Nedley, let me direct you
10 back to your document production.

11 So this is Nedley production, which
12 will be marked as Exhibit 2. And I'm specifically
13 looking at Nedley 3, so 000003. And I'm looking at
14 the first line --

15 A. Yes.

16 Q. -- that says, refund 42320. And what
17 is the amount you see?

18 A. 3,916.27.

19 Q. What is your understanding of why you
20 were refunded this amount?

21 A. I'm not sure.

22 Q. Is it possible, Miss Nedley, that this
23 was for your indirect costs?

24 MR. CIOLKO: Objection; form.

25 A. I'm unsure.

1 Q. Do you -- as you sit here today, do
2 you have any reason or any basis to refute that
3 this refund was for your indirect costs?

4 MR. CIOLKO: Objection; asked and
5 answered. You can answer.

6 A. I'm confused by the question.

7 MR. KIDNEY: Let me -- let me ask, Ed,
8 why do you -- I think that objection is
9 inappropriate. She said before she wasn't sure.
10 And now I'm asking her if she has a basis to
11 refute, which is a different question. Why do you
12 think that is an inappropriate question?

13 MR. CIOLKO: I --

14 MR. KIDNEY: I don't want to have a
15 lot of unnecessary objections, and that's what
16 we're having now. I made a point of rephrasing the
17 question. What is the problem with the question?

18 MR. CIOLKO: Where is the term
19 indirect costs identified and -- and defined? I'm
20 not going to have my client --

21 MR. KIDNEY: We can go back to that.
22 We -- all right. We'll go back to that. We --
23 it's been asked and answered, but I'll go back and
24 refresh her -- well, let me ask.

25 BY MR. KIDNEY:

1 Q. Miss Nedley, do you remember seeing a
2 document that listed indirect costs?

3 A. Much earlier on. But can we please
4 refresh?

5 MR. KIDNEY: Okay. I will say this
6 for the record. I don't think I have ever been in
7 a deposition where I've received so many
8 objections. It's going to cause this deposition to
9 go much longer. It's impeding the progress of the
10 deposition. And I would ask that my opposing
11 counsel limit his objections to ones that are truly
12 necessary.

13 MR. CIOLKO: Michael, I hear what
14 you're saying. I'll take that into account. And
15 to the extent that I can, I will limit my
16 objections. I will not limit my ability and
17 responsibility to defend my client.

18 MR. KIDNEY: I'm not asking you to
19 limit your professional obligations. But I will
20 say that in 20 years, I don't think I've ever had a
21 deposition with so many objections.

22 BY MR. KIDNEY:

23 Q. Miss Nedley, I'm going to direct you
24 back to something we've already gone over. But
25 this is -- it is a document -- it's your award

1 letter. It ends in 866.

2 And do you see on page 1 there are --
3 there is a total of indirect costs, and above that,
4 the indirect costs that are listed are books and
5 supplies, personal expenses, off-campus housing,
6 off-campus dining, off-campus transportation?

7 A. Yes. And no, I do not think this
8 refund was for indirect costs.

9 Q. You do not?

10 A. No.

11 Q. What do you think this refund was for?

12 MR. CIOLKO: Objection; asked and
13 answered. You can answer.

14 A. For overpaying. The indirect costs
15 were not paid to the university in the first place
16 for me to receive this refund from the university.

17 Q. Do you see that the loan amounts --
18 let me -- let me direct you to one, two, three,
19 four, five, six -- seven lines down. Plus direct
20 loan refund, what's the amount of that refund?

21 MR. CIOLKO: That the original
22 document, Nedley production.

23 MR. KIDNEY: This is Nedley production
24 exhibit, which is -- will be marked as Exhibit
25 Number 2, page Nedley 00003.

1 MR. CIOLKO: Thank you.

2 A. And the amount is \$3,3403.50.

3 Q. Miss Nedley, was this refund because
4 the plus direct loan that was taken out exceeded
5 the direct costs?

6 A. Yes.

7 Q. And why did you or your parents take
8 out a plus direct loan that exceeded the direct
9 costs owed to the University of Pennsylvania?

10 MR. CIOLKO: Speculation. But if you
11 know, you can answer.

12 A. I'm not sure.

13 Q. You're not sure why the loan amount --
14 did you tell me before that you were the one
15 responsible for the loan?

16 A. Yes.

17 Q. But you're not sure why you took out a
18 loan that you are responsible for in the amount
19 listed?

20 A. I am responsible for it.

21 Q. I understand.

22 What I'm asking is: Since you are
23 responsible for this loan, did you carefully
24 consider the amount of the loan that you asked for?

25 A. Yes.

1 Q. And so why did you ask for a loan of
2 11,768 if that -- if that was more than the direct
3 cost owed to the University of Pennsylvania?

4 MR. CIOLKO: Objection to form. You
5 can answer.

6 A. I'm not sure.

7 Q. How did you determine the amount of
8 the loan that you would ask for?

9 (Phone ringing.)

10 MR. CIOLKO: Somebody --

11 THE WITNESS: Is that our call?

12 Sorry.

13 MR. KIDNEY: No, it's -- you can
14 ignore that.

15 BY MR. KIDNEY:

16 Q. Do you want me to repeat the question?

17 A. Yes, please.

18 Q. So how did you determine the amount of
19 the loan that you or your family would ask for?

20 A. Based on the tuition and fees.

21 Q. So is it your testimony that you would
22 only ask for a loan to cover the tuition and fees?

23 MR. CIOLKO: Objection; form. You can
24 answer.

25 A. I'm not sure what the additional money

1 was requested for off the top of my head. I would
2 have to look back.

3 Q. What -- what -- how about rent for
4 your apartment?

5 MR. CIOLKO: Objection; form.

6 A. That wasn't --

7 Q. How did you pay for the rent -- how
8 did you pay for the rent for your apartment?

9 A. My parents assisted me with that.

10 Q. Did your parents pay for the rent?

11 A. Yes. But I don't --

12 Q. Your parents paid --

13 MR. CIOLKO: Hold on. Hold on,
14 Michael. She's not done answering.

15 Go ahead and finish your answer.

16 A. But this amount would not cover my
17 entire rent.

18 Q. Your parents paid for your apartment
19 rent and your dining plan. Did they also pay for a
20 portion of the tuition and fees due to the
21 University of Pennsylvania?

22 A. No.

23 Q. Why did your parents pay for the rent
24 and the dining plan but not tuition and fees?

25 MR. CIOLKO: Objection; speculation.

1 You can answer.

2 A. That was not agreed upon between my
3 parents and I, for them to cover tuition and fees.

4 Q. What is a co-out of house member fee?

5 A. I believe that was because I'm -- I
6 was in a sorority, and I did not live in the house.

7 Q. When did you join the sorority?

8 A. Give me one second. The spring of
9 freshman year, so spring of 2019.

10 Q. Did you ever pay for -- I'm sorry.
11 Did you ever live in the sorority house?

12 A. No.

13 Q. Are you still a member of the
14 sorority?

15 A. This is complicated because I
16 technically dropped, but it is not official on
17 paperwork yet.

18 Q. When did you drop?

19 A. Approximately around Christmas.

20 Q. And why did you drop?

21 A. Because I cannot justify paying when I
22 will be an in-season athlete and unable to attend
23 all events.

24 Q. Do you know whether Penn reduced the
25 student summer savings requirement for the summer

1 of 2020?

2 MR. CIOLKO: Objection; vague and
3 assumes facts not in evidence. But you can answer.
4 A. I'm not sure.

5 MR. KIDNEY: What is -- does that
6 assume that is not in evidence?

7 MR. CIOLKO: What is the summer --
8 could you repeat the term?

9 MR. KIDNEY: Do you know whether Penn
10 reduced the student summer savings requirement for
11 the summer of 2020?

12 MR. CIOLKO: So you're talking about a
13 different part of the document; is that correct?

14 MR. KIDNEY: I'm -- this is not on a
15 document.

16 MR. CIOLKO: It actually is. It's on
17 0067.

18 MR. KIDNEY: Well, the summer savings
19 requirement is referenced there. But my question
20 is: For the summer of 2020, which is not
21 referenced in that document, whether Penn reduced
22 the student summer savings requirement?

23 A. I'm not sure what you're talking
24 about.

25 Q. Okay. So let me -- let me direct you

1 back to the award letter. And this is Penn 866,
2 Exhibit 5 -- or will be Exhibit 5. And I want to
3 direct you to the student summer savings line.

4 A. Yes.

5 Q. Tell me when you get there -- I'm
6 sorry.

7 A. On page 2?

8 Q. Yes. Exactly right. Do you see that?

9 A. Yes.

10 Q. Is it your understanding from this
11 document that when Penn calculated your expected
12 family contribution for 2019 to 2020, they -- Penn
13 expected you to contribute \$3200 from your student
14 summer savings from any job you had in the summer
15 of 2019?

16 A. Yes.

17 Q. Now, in the summer of 2020, the
18 pandemic, had hit; is that correct?

19 A. Yes.

20 Q. Is it your -- do you have an
21 understanding of whether Penn told students, we do
22 not -- we no longer expect you to contribute money
23 that you earn from the summer of 2020 because of
24 the pandemic?

25 A. I was not aware.

1 Q. Do you recall ever receiving a summer
2 savings grant from the University of Pennsylvania?

3 A. Not off the top of my head.

4 Q. And certainly, when you applied to the
5 University of Pennsylvania and you were accepted,
6 the University of Pennsylvania never promised to
7 give you a summer savings grant if a pandemic hit;
8 is that correct?

9 A. Can you rephrase that, please?

10 Q. The -- prior to the pandemic hitting
11 --

12 A. Uh-huh.

13 Q. -- is it correct that the University
14 of Pennsylvania never promised to give you a summer
15 savings grant in response to the pandemic?

16 A. I'm unsure.

17 Q. You're unsure whether they promised
18 that?

19 A. Correct.

20 Q. As you sit here today, do you have any
21 recollection of the University of Pennsylvania
22 promising to give you a summer savings grant prior
23 to the onset of the pandemic?

24 A. I'm unsure.

25 Q. That's not my question.

1 A. Can you rephrase it?

2 MR. CIOLKO: That's her answer. You
3 don't like it -- that's --

4 MR. KIDNEY: That's not my question.
5 The witness is not answering my question. In order
6 to finish this deposition we need direct answers to
7 questions, like most deponents give. This --

8 MR. CIOLKO: That is your answer,
9 period.

10 MR. KIDNEY: The witness said she is
11 unsure.

12 BY MR. KIDNEY:

13 Q. I have a different question. And I'm
14 going to read it back to you. And I will keep
15 asking the question until we get an answer.

16 MR. CIOLKO: As long as I let you.

17 Q. As you sit here -- I understand you're
18 unsure, miss Nedley, of my -- of the earlier
19 question I asked you. I have a different question.

20 I'm not asking you if you're sure
21 about something. I'm asking you: As you sit here
22 today, do you have any recollection of the
23 University of Pennsylvania promising, prior to the
24 pandemic, to give you a summer savings grant as a
25 result of a future pandemic hitting?

1 A. No.

2 Q. Thank you.

3 I just -- just so you know, Miss
4 Nedley, if you're unsure of something, that's
5 completely fine, but I need to know, as a lawyer,
6 if we get to trial, are you going to say something
7 like -- are you going to refute it? Are you going
8 to say, well, I was unsure of the answer, but had
9 the university promised something, I would have
10 remembered that. So that --

11 MR. CIOLKO: Is there a question?
12 Michael, is there a question?

13 MR. KIDNEY: There is. It is a
14 question of -- no, there's not a question. But I
15 wanted to give you an -- I wanted to explain to you
16 why I need to ask effective questions.

17 MR. CIOLKO: She answered.

18 BY MR. KIDNEY:

19 Q. So, Miss Nedley, let me direct you to
20 a spreadsheet that you have seen before. This is
21 in the ZIP file, and it ends with 865. Do you see
22 that document?

23 A. Yes.

24 Q. Let's go to --

25 A. I'm sorry. I would like to clarify

1 that I haven't seen this document before you had me
2 open it earlier and then suggested a different
3 document.

4 Q. Understood. Thank you for that
5 clarification.

6 Miss Nedley, let me direct you --

7 MR. KIDNEY: And just for the court
8 reporter's benefit, this document is eventually
9 going to be marked as Exhibit 6.

10 BY MR. KIDNEY:

11 Q. I can represent to you, Miss Nedley,
12 that this is a printout -- this has been produced
13 in discovery in response to your lawyer's request
14 for a copy of the university account statement
15 regarding you.

16 MR. CIOLKO: Michael, is there a page
17 number you can direct us to?

18 MR. KIDNEY: Yes. It is 865.

19 MR. CIOLKO: Thank you.

20 MR. KIDNEY: 00000865.

21 MR. CIOLKO: Thank you.

22 MR. KIDNEY: You're welcome.

23 BY MR. KIDNEY:

24 Q. Miss Nedley, let me direct you to line
25 45.

1 A. Yes.

2 Q. Can you -- do you see under column B
3 does that says, COVID-19 summer savings grant?

4 A. Yes.

5 Q. And what is the amount?

6 A. \$1600.

7 Q. And in column F, what is the date?

8 A. July 8th of 2020.

9 MR. CIOLKO: Michael, quick
10 clarification. Is that column that you're
11 referencing a payment column as opposed to a
12 charge?

13 MR. KIDNEY: That is -- this -- my
14 understanding is this was -- since it's a grant,
15 this was a -- this was a credit to Miss Nedley's
16 account.

17 MR. CIOLKO: Thank you.

18 MR. KIDNEY: Just like the other
19 grants. You're welcome.

20 MR. CIOLKO: I wanted to make sure I
21 understood that.

22 BY MR. KIDNEY:

23 Q. Miss Nedley, does this refresh your
24 recollection? Do you recall receiving a COVID-19
25 summer savings grant?

1 A. Yes, now I do.

2 Q. And it was in the amount of \$1600?

3 A. I believe so.

4 Q. And is it your understanding that, as
5 the case with other grants, you do not have to
6 repay this amount?

7 A. Correct.

8 Q. Other than your aunt -- your great
9 aunt and your great uncle and your parents, did any
10 other third parties financially assist with paying
11 for your undergraduate education?

12 A. When I was a senior in high school,
13 there were -- I don't know if you call them
14 third-party scholarships available. So I had
15 applied to money plus, and I received around, I
16 think, \$10,000 in outside scholarships.

17 MR. CIOLKO: 20 plus as the number --

18 THE WITNESS: I applied to 20 or so
19 applications, like separate applications for
20 separate scholarships.

21 BY MR. KIDNEY:

22 Q. And do you still have a record of
23 those, Miss Nedley?

24 A. I might. But I'm honestly not sure
25 because most of them were just handed to me. And

1 not any official documents online. So it's all via
2 paper.

3 Q. I would ask, Miss Nedley, when you
4 can, check your records. And if those records
5 still exist, please send them to your counsel.

6 A. Okay.

7 Q. I don't remember whether I asked you
8 this, Miss Nedley. And I apologize I'm asking you
9 this again.

10 Do you have a copy of the application
11 you submitted to Penn to get the Penn grant
12 COVID-19 expense for your rental car?

13 MR. CIOLKO: You did ask.

14 Please answer again.

15 A. I will have to look because I'm not
16 entirely sure because it was so long ago.

17 BY MR. KIDNEY:

18 Q. Again, I would ask, Miss Nedley, if
19 you please look for that, and if you find it, give
20 it to your counsel. I would appreciate it.

21 MR. CIOLKO: That one is already
22 noted.

23 BY MR. KIDNEY:

24 Q. You are not required to repay that
25 amount; is that correct? Is that your

1 understanding?

2 A. What?

3 Q. The \$465 for the rental car.

4 A. Correct.

5 Q. Was -- the \$465, did that cause the
6 university to recalculate your financial aid?

7 A. From my understanding, if you were on
8 financial aid of any sort, you were, like,
9 available -- you were able to request for
10 transportation home to be covered.

11 Q. And -- and the \$465 that you received,
12 did the university -- do you have an understanding
13 whether the university factored that into the cost
14 of attendance?

15 A. I'm not sure.

16 Q. Okay. So let me direct you to your
17 award letter.

18 A. What was the --

19 Q. I'm sorry. Your -- let me -- this is,
20 let's see, 866.

21 A. Yes. And which portion of it?

22 Q. So let me -- let me first show you --
23 on page 1, do you see where it says, towards the
24 top of the page, January 16th, 2020?

25 A. Yes.

1 Q. And the total cost of attendance on
2 that page is 76,444?

3 A. Yes.

4 Q. Okay. And now scroll down. And on
5 page 3 of this document, which is Bates-stamped
6 868, you see now this -- this document is dated
7 April 16th, 2020?

8 A. Yes.

9 Q. And the -- the total cost of
10 attendance has increased from \$76,444 to \$76,909?

11 A. Yes.

12 Q. Do you have a calculator handy, or
13 maybe there's one on your phone?

14 A. Yes.

15 Q. Would you subtract 76,909 and then do
16 minus 76,444 for me?

17 A. Yes.

18 Q. And what is that difference?

19 A. \$465.

20 Q. And does that match up to the other --
21 still looking at page 3 of this document, third --
22 do you see what -- if you look at total cost after
23 attendance and you look up two lines, do you see
24 other expense, 465?

25 A. Yes.

1 Q. And is that the same amount that the
2 -- you asked for for the rental car?

3 A. Yes.

4 Q. And then if you look below under your
5 financial aid resources for 4/29/2020, do you see
6 the third line down, Penn grant for 65?

7 A. Yes.

8 Q. And do you also see the total net cost
9 24620 at the bottom of page 868?

10 A. Yes.

11 Q. And can you tell me, if you compare
12 that total cost number on page 868 to the total net
13 cost number at the bottom of 866, is it the same
14 number?

15 A. Yes.

16 Q. So is it your understanding from these
17 two documents that your -- your total net cost of
18 attending the University of Pennsylvania did not
19 change as a result of requesting money for a rental
20 car to return to your home in the suburbs of
21 Pittsburgh?

22 A. Correct.

23 Q. But your total cost of attendance went
24 up, as well as the amount of financial aid went up?

25 A. Yes.

1 Q. And -- and the total cost of
2 attendance increased in the amount of \$465,
3 representing the cost of rental car, correct?

4 A. Yes.

5 Q. And the total financial aid increased
6 in the amount of \$465, representing the cost of the
7 rental car?

8 MR. CIOLKO: I'm only going to object
9 to that it assumes is facts not in evidence. The
10 numbers are the same, but there's nowhere that
11 indicates that's exactly what that number was based
12 for.

13 I'm not suggesting it isn't, but all
14 you're asking is, is one number the same as the
15 other.

16 MR. KIDNEY: I understand the
17 objection. You can answer, if you can.

18 MR. CIOLKO: You can answer.

19 A. I'm so sorry. Can you please repeat
20 the question?

21 BY MR. KIDNEY:

22 Q. Sure. So if you compare pages 866 --

23 A. Yes.

24 Q. -- and 868 --

25 A. Yes.

1 Q. -- the financial aid resources for
2 2019 to 2020 increased by the amount of 465, which
3 is the same amount as the amount you requested for
4 a rental car to return to your home in the suburbs
5 of Pittsburgh?

6 A. Yes.

7 Q. Prior to the onset of the pandemic,
8 you did not know that you were going to receive
9 this \$465; is that correct?

10 A. Correct.

11 Q. Would you agree that the \$465 should
12 be deducted from any amount of damages that you're
13 seeking in this case?

14 MR. CIOLKO: Objection; calls for a
15 legal conclusion. You can answer.

16 A. Oh, no, because I'm representing my
17 class, and not everyone was able to receive
18 compensation for return travel home.

19 Q. And I'm sorry. I missed the last part
20 of that answer.

21 A. Oh, I'm sorry. Not everyone was able
22 to request further travel home to be covered by the
23 university.

24 Q. Would you agree that for those people
25 who did receive money to travel home from the

1 university, that for those people, those amounts
2 should be deducted from any damages that they are
3 owed?

4 MR. CIOLKO: Same objection; calls for
5 expert testimony. You can answer.

6 A. No, because that was not factored into
7 the fees that I had set forth to pay in the first
8 place or were -- was anticipated in terms of, like,
9 what the -- I imagined those fees would end up
10 totaling. This was not included in the first
11 place. So no, I don't think it should be deducted
12 because it's like an afterthought.

13 Q. And would you agree that this money
14 assisted you in transitioning after the onset of
15 the pandemic?

16 MR. CIOLKO: Objection to form. You
17 can answer.

18 A. Can you define what you mean by
19 transitioning?

20 Q. Let me ask it a different way.

21 Would you agree that the \$465 assisted
22 you in continuing your studies as a result of the
23 pandemic?

24 MR. CIOLKO: Same objection. You can
25 answer.

1 A. I'm not sure of that. Because it's
2 not really continuing it. I was expected to
3 continue my education based on my own reasoning to
4 finish my education on time and also for my
5 professors to stay in class. So this was a
6 necessity in order for me to continue my education
7 or to stay in class, honestly.

8 Q. And would you agree that this is money
9 that you would not have received but for the
10 pandemic?

11 A. Yes.

12 Q. Let me direct you back to the
13 spreadsheet. And by spreadsheet, I mean what will
14 be marked as Exhibit 6.

15 BY MR. KIDNEY:

16 Q. And it is Bates number 865. And let
17 me direct you to lines 56 and 57. Or actually,
18 just 56.

19 A. Yes.

20 Q. Do you see on line 56 it says,
21 COVID-19 dining adjustment?

22 A. Yes.

23 Q. And is the amount there \$683.27?

24 A. Yes.

25 Q. And the prior line refers to -- says

1 refund. And then it says the same amount, 683.27?

2 A. Yes.

3 Q. Does this refresh your recollection of
4 the amount that the university refunded to you from
5 your dining plan?

6 A. Yes.

7 Q. And do you see on line 70 it says,
8 dining club activities plan, 1489.5?

9 A. Yes.

10 Q. Can you take out your calculator again
11 for me, please?

12 A. Yes.

13 Q. Put in 148.5.

14 A. One second, please. 148.5.

15 Q. And then do minus 683.27 for the
16 dining adjustment.

17 A. Yes.

18 Q. And what do you get?

19 A. \$806.23.

20 Q. And is that amount that you just read
21 into the record, does that line up with line 2 of
22 the document you produced, which is Bates-stamped
23 Nedley 3?

24 MR. CIOLKO: Hold on. We'll take a
25 look. Can you repeat that, please? Sorry. I just

1 have the documents up now.

2 Q. Sure. So you -- the number -- you
3 took 1489.50, representing the charge for the
4 dining club activities plan.

5 A. Yes.

6 Q. And subtracted the refund of 683.27,
7 and you told me you came up with the number 806.23.

8 A. Yes.

9 Q. And then I'm asking you: Is that
10 806.23, does that line up with line 2 of Nedley 3?

11 A. Yes.

12 Q. So let me just make sure I understand.
13 So the \$806.23 represents, according to Nedley 3,
14 what you ended up paying net for the dining club?

15 A. Yes.

16 Q. And is it -- does this refresh your
17 recollection that the -- that had the pandemic not
18 hit, the cost of your dining club plan would have
19 been 1489.50, and you received a refund of \$63.27?

20 MR. CIOLKO: Objection based on
21 speculation. But you can answer.

22 A. Yes.

23 BY MR. KIDNEY:

24 Q. What -- and so -- let me just clarify
25 the record.

1 You had earlier told me that your
2 parents paid for the dining fees. So in a semester
3 where they would have been \$1489.50, your parents
4 would have paid for that?

5 A. Yes.

6 Q. So let me direct you to -- are you --
7 do you still have Nedley Bates number 3 in front of
8 you?

9 A. Give me one second.

10 Q. Okay.

11 A. Okay. Yes.

12 Q. I want to direct you to the last three
13 lines. For the last four lines, is it your
14 understanding that the university charged you
15 \$25,578 for tuition for the spring 2020 semester?

16 A. Yes.

17 Q. Is it your understanding that Penn
18 charged your account a general fee in the amount of
19 2,568 for the spring 2020 semester?

20 A. Yes.

21 Q. Is it your understanding Penn charged
22 you a clinical fee in the amount of \$304 for the
23 spring 2020 semester?

24 A. Yes.

25 Q. Is it your understanding that Penn

1 charged your account a technology fee in the amount
2 of \$435 for the spring 2020 semester?

3 A. Yes.

4 Q. And you are seeking a refund of the
5 portion of these three fees; is that correct?

6 MR. CIOLKO: I'm going to object to
7 the extent it calls for a legal conclusion. But
8 you can answer.

9 A. Yes for the technology fee, general
10 fee, and clinical fee.

11 Q. Prior to the spring 2020 semester, did
12 you know what the general fee amount was for the
13 spring 2020 semester?

14 A. Yes.

15 Q. And prior to the spring 2020 semester,
16 did you know what the clinical fee amount and the
17 technology fee amount was for the spring 2020
18 semester?

19 A. Yes.

20 Q. So let me -- we can flip back to your
21 award letter, which is 866.

22 A. Okay.

23 Q. And let's look at page 868. And I
24 want to direct you to under the blue bar. It says
25 your financial -- your financial aid resources for

1 2019 to 2020, and you see where it says, Penn
2 grant, \$43,702?

3 A. Yes.

4 Q. And if -- is it -- let me ask it this
5 way.

6 Did Penn ever make any representation
7 to you about whether this grant in the amount of
8 \$43,702 would be applied first to tuition or first
9 to mandatory fees?

10 A. I don't recall them specifying.

11 Q. Prior to the spring 2020 semester, do
12 you -- did you know what student services the
13 general fee supported?

14 A. Where are you referencing student
15 services?

16 Q. Good question. I'm not. It's -- it's
17 -- so that is not -- I'm not asking you a question
18 about this document. So you can put this document
19 down.

20 What I'm asking is: Prior to the
21 beginning of the spring of 2020 semester, you knew
22 there was a general fee, correct?

23 A. Yes.

24 Q. Did you know what that general fee
25 supported, what services?

1 A. Yes.

2 Q. How did you know that?

3 A. On the website, reading it.

4 Q. So you went to the website that the
5 University of Pennsylvania put together that
6 explained what the general fee -- what services the
7 general fee supported?

8 A. Yes.

9 Q. Did you have -- were there any other
10 sources of information or was it that website?

11 A. I believe I also, in years past, would
12 receive the financial aid packages in, like, a
13 physical package. And I'm sure it was within that,
14 also. I'm not sure. I would imagine it was in
15 there.

16 Q. And when you say you would imagine it
17 was in there, do you mean a printout of the website
18 or the information on the website?

19 A. The information on the website.

20 Q. Okay. So prior to the onset of remote
21 instruction in the spring 2020 semester, what
22 services did you make use of that the university
23 offered?

24 MR. CIOLKO: Objection; form. You can
25 answer.

1 A. Access to career services, access to
2 student health services, and access to all of the
3 athletic facilities and everything that comes along
4 with athletics. As far as people for academics,
5 people to help be a liaison between athletics and
6 academics, as well as the mental health counselors
7 that they had and performance counselors and
8 endurance and conditioning coaches. Did I say the
9 dietitians?

10 Q. Anything else?

11 A. That's all that is coming to mind
12 right now, but I'm sure there's others that I would
13 have to think more. And I'm sorry. I guess I
14 could add access to different clubs and various
15 activities, such as the pre-dental society.

16 Q. Okay. So let me -- let's -- I'm going
17 to take you back through each of the things you
18 mentioned.

19 A. Okay.

20 Q. And what I would like to know is, for
21 each of the services, activities, clubs, did you
22 participate in them in the first half of the spring
23 2020 semester prior to the pandemic?

24 A. Okay.

25 Q. So let's start with the last -- what's

1 -- so career -- let's start with career services.

2 Did you make -- did you take advantage
3 of career services in the first half of the spring
4 2020 semester?

5 A. Yes.

6 Q. And did you go to the career service
7 building?

8 A. No.

9 Q. How -- so you accessed the resources
10 online?

11 A. Yes.

12 Q. And was that -- what were you
13 accessing? Was it information about dental school
14 or summer job or something different?

15 A. Yes, for dental school. They have
16 advisors that help with the entire process.

17 Q. And after the pandemic hit, did you
18 take advantage of career services offered online
19 during the spring 2020 semester?

20 A. Yes. They have -- can I elaborate?
21 So they have a book that the university houses in
22 career services. And when I was switched to
23 online, I no longer gained access to that. And it
24 has all of the information on all the dental
25 schools across the country as well as their

1 statistics and acceptance rates and a breakdown of
2 the schools.

3 And Penn career services marketed that
4 very early on, that I would be able to walk in and
5 use that at any time. And I had organized for me
6 to go on and use it, and then we were switched
7 online, so I no longer had access.

8 Q. And did you ever ask anybody in career
9 services if they could arrange for you to access it
10 virtually?

11 A. Yes. And they said they only had it
12 in-house.

13 Q. I'm sorry. They only had it in-house?

14 A. Yes, like, in career services.

15 Q. And do you -- did they offer any other
16 solution to you?

17 A. You could buy it online, which is what
18 I ended up doing and paying for that out of pocket.

19 Q. And how much is that cost?

20 A. I'm not sure of the exact cost off the
21 top of my head. But it was a year-long
22 subscription. I wanted --

23 Q. Did you?

24 A. I want to say between, like, \$60 and
25 \$100.

1 Q. So next, student health services. Id
2 you visit student health service in the first half
3 of 2020?

4 A. I was always sick.

5 Q. I'm sorry. That was a poor question.
6 Let me ask you again.

7 Did you visit the student health
8 services in the first half of the spring 2020
9 semester?

10 A. I would need to look back. I was
11 constantly sick, so I would imagine so. But I
12 can't recall what exact sickness I was in there
13 for.

14 Q. And when you say you were constantly
15 sick, you mean you had cold and flus and things
16 like that?

17 A. Yes. And ear infections and pink eye
18 and strep. And my teammates had mono. So we were
19 all always in there. It was --

20 Q. I'm sorry.

21 A. It was like daycare. We were all in
22 daycare and got sick.

23 Q. Sorry to hear it.

24 So after the pandemic hit, did you
25 take advantage of student health services?

1 A. My mother is now a nurse. So I did
2 not feel the need to talk to a nurse at student
3 health, and I had my mother at home.

4 Q. Understood.

5 And were you aware that you could
6 access student health services virtually?

7 A. Yes.

8 Q. And were you aware that if you were
9 still living in Philadelphia, you could walk into
10 the student health services building during the
11 pandemic?

12 A. I was not aware of that. There was a
13 lack of communication, I feel, on that end because
14 they -- we were all just essentially told to go
15 home. It seems that communication was cut off.

16 Q. You also mentioned access to all of
17 the athletic facilities and the -- the -- the
18 people connected with the athletic facilities for
19 academics. Let's start there.

20 A. Okay.

21 Q. In the first half of the spring 2020
22 semester, did you make use of any of the academic
23 resources for athletes?

24 A. Yes. That is when I was in season.
25 So the academic department within athletics, they

1 helped me notify my professors when I would be
2 missing class for softball, arrange for my
3 professor -- or sorry, my coach to proctor exams
4 for various students. I had one exam proctored by
5 my coach that spring -- or I'm sorry. That was the
6 spring before. Ignore that comment.

7 But, yes, in general they were there
8 as a liaison. I was in contact with the dietitian
9 at the time or the nutritionist.

10 And then in terms of an athletic
11 trainer, I was with my athletic trainer every day,
12 roughly twice a day.

13 And then access with my coach. I was
14 working out with my strength and conditioning coach
15 also. We were with him two days a week at the
16 time.

17 Q. And after the pandemic, did you have
18 access to those some people virtually?

19 A. No.

20 Q. Did you have access -- were you able
21 to talk to your coach?

22 A. Via text or calling but not --

23 Q. And did you ever have a --

24 A. Oh, go ahead.

25 Q. No, you go ahead. I didn't mean to

1 cut you off.

2 You said via texting what?

3 A. Just via texting, calling. I was not
4 able.

5 Q. Okay.

6 A. The major portion of strength and
7 conditioning is being there and someone watching
8 you and your form, and you couldn't necessarily do
9 that over the phone because, one, all of the gym
10 were closed, so we didn't have access to any
11 facilities at home or on campus. So there was no
12 way for that tool to be utilized.

13 Q. Did you have Zoom calls with your
14 coach?

15 A. Yes.

16 Q. And did you have contact with the
17 dietitian?

18 A. Yes.

19 Q. Did you have contact with the mental
20 health counselors?

21 A. Yes.

22 Can I add one thing?

23 Q. Sure.

24 A. So I had knee surgery in December of
25 2019. That was covered by the university because

1 it was an injury I sustained while at the
2 university. And with COVID, I was sent home in the
3 middle of rehab and I was unable to access the
4 resources that Penn Athletics had guaranteed me as
5 far as rehab through the athletic center.

6 Q. And when were you sent home?

7 A. In March.

8 Q. Oh, so the surgery occurred in
9 December, but you were still rehabing in March?

10 A. Yes.

11 Q. Okay. So were you not playing in
12 games in the spring 2020 semester because of your
13 knee surgery?

14 A. So I was playing, but I was eased back
15 into the process. And I was still meeting with my
16 doctor regularly and receiving injections to keep
17 on playing.

18 Q. During the first half of the spring
19 2020 semester, did you access mental health
20 counseling?

21 A. No.

22 Q. During the first half of the spring
23 2020 semester, were there any clubs you
24 participated in such -- let's see, you mentioned
25 the pre-dental society; is that correct?

1 How often does the pre-dental society
2 meet in normal times?

3 A. At that time, we would have been
4 meeting roughly once a month or once every month
5 and a half.

6 Q. And post pandemic, did the pre-dental
7 society continue to meet?

8 A. Not in spring of 2020 but following.
9 We Zoomed in dental professionals. But we were
10 unable to go into -- it's -- in previous times,
11 they would go into local schools and teach dental
12 hygiene, and that was no longer available to us.

13 Q. But would you -- could -- did the
14 pre-dental society have any Zoom meetings among
15 themselves during the second half of the spring
16 2020 semester post pandemic?

17 A. I don't recall. I think it was email
18 at that point because everyone was just up in the
19 air with moving and . . .

20 Q. Other than the organizations and the
21 activities and the services we just discussed, are
22 there any other activities, services, or clubs that
23 you participated in in the first half of the spring
24 2020 semester that you could not participate in the
25 second half of the spring 2020 semester?

1 A. Can I talk about employment here?

2 Q. Sure.

3 A. Okay. So with my athletic operations
4 position, I'm involved in setting up for all
5 events, running all events. So say for soccer, if
6 somebody kicks a ball out of bounds, I get them a
7 new ball and chase the other ones. And I do that
8 for various sports. And then I also break down the
9 events. And with Penn relays, we run the entire
10 events.

11 So in the spring of 2020, I was no
12 longer given access to that position, as all
13 athletic events were, obviously, cancelled. And
14 then I have another job whenever you're ready.

15 MR. CIOLKO: You might want to ask
16 that question again.

17 MR. KIDNEY: Yes.

18 MR. CIOLKO: I -- I want to make sure
19 you got an answer.

20 MR. KIDNEY: Yep. Yep. I appreciate
21 that, Ed.

22 BY MR. KIDNEY:

23 Q. So I'll let you talk about the jobs,
24 Miss Nedley, but let me just repeat the question
25 and make sure, other than -- let's make sure

1 there's nothing else you want to mention.

2 A. Okay.

3 Q. So other than the organization and the
4 activities and the services and any jobs that you
5 have -- we've just discussed, are there any other
6 activities, services or clubs that you participated
7 in in the first half of the spring 2020 semester
8 that you could not participate in in the second
9 half of the spring 2020 semester?

10 A. I was also a member of the Fellowship
11 of Christian Athletes. And that met every week.
12 And once we were switched -- like, sent home, there
13 was a disconnect there.

14 Q. And -- and -- and were there any Zoom
15 meetings after the pandemic hit in the spring 2020
16 semester?

17 A. There was nothing that replicated what
18 we did in person because it was about activities
19 and bonding between people and, like, physical
20 standing up and doing different things. So we
21 couldn't replicate that, but there was a different
22 -- I ended up forming all female Bible study with
23 several members from there, but it was not the same
24 experience as in person.

25 Q. And how often did that all female

1 Bible study group meet?

2 A. Once a week.

3 Q. And was that over Zoom?

4 A. Yes.

5 Q. Now, you wanted to tell me about your
6 job, your second job.

7 A. Yes.

8 Q. So tell me about that.

9 A. So I'm a tutor through the Marks
10 Family Center for Excellence in Writing. And
11 during this time, I -- we were required to work
12 three hours a week. I'm not sure of the exact
13 hours I was in person. I want to say three of six,
14 I'll have to look back. But that was all in
15 person.

16 And then when the pandemic hit, they
17 switched us to an online platform. And the
18 platform I personally was rarely able to use
19 because I was constantly kicked out of it.

20 So this is called WCONLINE, but I
21 believe the WC stands for writing center. And with
22 that, students would sign up for appointments and
23 then meet with me among -- there were, like, 40
24 tutors at the time. But the platform itself rarely
25 worked, so students were unable to gain access to

1 the services, the tutoring services provided by the
2 university.

3 Q. Were you also a member of the Penn
4 Athletics Wharton Leadership Academy?

5 A. Yes.

6 Q. Did that organization meet in the
7 spring of 2020, either before or after the
8 pandemic?

9 A. Yes, both. Before the pandemic, we
10 would meet -- it was a little scattered. I would
11 say we would meet three times a month. So kind of
12 every week, kind of biweek it. Depended.

13 And in the sophomore program, it was
14 teaching us how to be leaders. And this was
15 facilitated by the McNulty Leadership Program in
16 Wharton. And during this time, the university or
17 the program leaders would bring in renowned leaders
18 basically to talk to us about how to be leaders on
19 our team.

20 At the end of it, us sophomores were
21 supposed to go on a trip. And the current
22 sophomores just did it, where they take you -- I'm
23 not sure of details because they were very hushed,
24 but I was told they went to Berwyn, New York and
25 were placed into team building activities, I

1 believe for one full day, one night, and then the
2 next half day. And they were essentially off the
3 grid, learning how to be leaders in this situation
4 and how to work with people that you necessarily
5 wouldn't interact with sometimes.

6 But that's what's a team is, a bunch
7 of people from different backgrounds coming
8 together. So I was never able to go on this trip.
9 We missed it.

10 Q. Were there any meetings of this group
11 in the second half of the spring 2020 semester
12 after the pandemic hit?

13 A. There was a gap because everyone --
14 most of our season were just ripped from us. And
15 then, yes, eventually we did come back together via
16 Zoom.

17 Q. And that was during the spring 2020
18 semester?

19 A. Yes.

20 Q. And do you remember when that occurred
21 that you eventually started having meetings in the
22 spring 2020 semester?

23 A. I'm not sure of the exact date, but I
24 believe by the end of March or the beginning of --
25 first week of April.

1 Q. And Penn Athletics health and wellness
2 captain, you -- what is that?

3 A. So that they just take captains from
4 teams. So some teams nominate people and some
5 teams people just step up and they go to the center
6 where there are meetings. And those are typically
7 held once a month, where we were together and were
8 able to discuss various aspects of what athletes at
9 Penn experienced at the time.

10 So one group we broke up into groups.
11 And my group was focused on allowing the incoming
12 freshman the following year to be able to, like,
13 understand the experience that we're going through.

14 So the plan was to have an in-person
15 during our NSL where the students could get to meet
16 everyone and really understand the expectations of
17 athletics. And we had prepared all semester for
18 that, and then that was turned virtual. And that
19 would have been early fall of 2020, so in August.
20 But the prep that we had done throughout the spring
21 didn't necessarily translate because we were
22 planning for in-person, and it was online.

23 Q. And did you continue to prepare during
24 the pandemic period of the spring 2020 semester?

25 A. Yes. But it was hard because that was

1 the time when we could come together in person.
2 Because I was working with a rower and a track
3 athlete, and we -- that was our set time -- with
4 our busy schedules, that was our set time to come
5 together and plan everything, and that was
6 exchanged.

7 Q. And were you still able to meet with
8 those two people?

9 MR. CIOLKO: Objection to form. Asked
10 and answered.

11 Q. Well, let me -- you -- let me ask it
12 another way.

13 You said it was difficult with the
14 busy schedules. In spite of the difficulty, were
15 you able to meet either over Zoom or on the phone
16 during the pandemic portion of the spring 2020
17 semester?

18 MR. CIOLKO: Same objection. You can
19 answer.

20 A. Yes. I believe we communicated via
21 email, but we used our academic liaison as our
22 liaison for this process.

23 Q. In the spring -- do you have an
24 understanding as to whether the general fee
25 supports intercollegiate athletics?

1 A. Yes, I believe it does, as well as --

2 Q. And what --

3 MR. CIOLKO: Let her finish.

4 Q. As well as what?

5 A. Intramurals, like open rec.

6 Q. And what is that -- what is your
7 understanding based on? The Penn website?

8 A. Yes.

9 Q. In the spring 2020 semester, did you
10 ever use the Pottruck fitness center?

11 A. No.

12 Q. Did you ever use the Fox Fitness
13 Center?

14 A. Yes.

15 Q. And as a varsity athlete, you also had
16 access to your own athletic facilities; is that
17 correct?

18 A. It's called Weiss, W-E-I-S-S.

19 Q. And why, if you had access to Weiss,
20 did you go to the Fox Fitness Center?

21 A. Based on timing of when other teams
22 were in the Weiss Athletics Center, when the
23 equipment was taken, Fox was directly upstairs, and
24 it was in close proximity to my locker room and
25 field. So it was easy to go right there and not

1 interrupt other teams.

2 Q. How many times did you visit the Fox
3 Fitness Center in the spring 2020 semester?

4 A. I would say between 10 to 15 times.

5 Q. And -- and -- go ahead. Finish.

6 A. Starting -- whenever my team came back
7 together, we did all of our team workouts in the
8 Weiss facility. And there was no need to be in Fox
9 at that point.

10 Q. So when you went to the Fox Fitness
11 Center, to gain access, did you swipe in with your
12 Penn card?

13 A. Most of the time not. It was to get
14 into the door.

15 Q. To what?

16 A. To get into the door. And then you
17 could just walk past.

18 Q. But did you need your Penn card to
19 swipe into the door?

20 A. Yes.

21 Q. So if we check the university records
22 for the Fox Fitness Center, would you expect that
23 there are going to be 10 to 15 records of you
24 swiping in in the spring 2020 semester?

25 A. Yes. And it's into the door. I

1 didn't have to swipe into the actually facility.
2 So in that door, also gave me access to my varsity
3 gym.

4 MR. CIOLKO: Maybe there's one door.

5 A. There's one door that leads to both
6 areas.

7 BY MR. KIDNEY:

8 Q. Oh, Okay. Gotcha.

9 A. So that's the way of deciphering.

10 Q. So from the swipe, we wouldn't know
11 whether you went to the Fox Fitness Center or
12 Weiss?

13 A. Correct.

14 Q. And you also had access to the
15 Weightman -- to Weightman physical therapy; is that
16 right?

17 A. Yes. And that's where I did my knee
18 rehab from the surgery.

19 Q. So is it fair to say that not every
20 student at Penn uses the recreational facilities
21 available to them?

22 MR. CIOLKO: Objection; speculation.

23 Q. You can answer.

24 A. I'm not sure of that answer. I was
25 saying not everyone, but a fair amount of students

1 do use these facilities.

2 Q. And that was true during the first
3 half of the spring 2020 semester?

4 A. I would imagine so.

5 Q. And is it fair to say that during the
6 first half of the spring 2020 semester, not every
7 student at Penn participated in student activities?

8 MR. CIOLKO: Objection; speculation.
9 You can answer.

10 A. Again, I'm not really sure.

11 Q. Is it fair to say that during the
12 first half of the spring 2020 semester, not every
13 student at Penn participated in campus events?

14 MR. CIOLKO: Same objection. You can
15 answer.

16 A. Same answer. I'm not sure.

17 Q. Do you -- when you say you're not
18 sure, do you know -- do you know of any students
19 who would just study all the time and not
20 participate in campus events?

21 MR. CIOLKO: Objection; form. If you
22 can answer.

23 A. No, everyone used different things.

24 Q. And your recollection is that every
25 student on campus would use -- would take advantage

1 of some sort of campus event?

2 A. Yes, to my knowledge, of the people
3 that I know.

4 Q. And is it fair to say that during the
5 first half of the spring 2020 semester, not every
6 student at Penn participated in fraternity and
7 sorority life?

8 A. That is fair to say.

9 Q. Is it fair to say that during the
10 first half of the spring 2020 semester, some
11 students participated in student activities or
12 utilized services offered by the university more
13 frequently than other students?

14 MR. CIOLKO: Objection; speculation.
15 You can answer.

16 A. I would imagine, yep.

17 Q. Are you aware that after the
18 university transitioned to remote instruction in
19 the spring 2020 semester, at least some student
20 services remained available in person, such as
21 student health?

22 A. Can you repeat.

23 MR. CIOLKO: Objection; form. But you
24 can answer.

25 A. Can you repeat that, please?

1 Q. Sure. Are you aware that after the
2 university transitioned to remote instruction in
3 the spring 2020 semester, at least some students --
4 I'm sorry -- at least some student services
5 remained available on an in-person basis?

6 A. Based on our conversation earlier,
7 what student health is now, yes.

8 Q. And how about the division of public
9 safety, do you have an understanding of whether
10 they continued to provide safety and security and
11 walking escort following the university's
12 transition to remote instruction?

13 A. I believe they remained in effect but
14 in a decreased capacity.

15 Q. And why do you say they were in a
16 decreased capacity? What's that based on?

17 A. So when I was still at school for a
18 few days before returning home, walking around, I
19 didn't see the same police or allied service
20 presence that I had seen prior.

21 Q. Are you aware that the university
22 counseling and psychological services, CAPS,
23 continued to maintain an on-campus presence and
24 allowed drop-in appointments following the
25 university's transition to remote instruction in

1 the spring 2020 semester?

2 A. Yes, I was aware of that. And I did
3 not seek direct service. But several people that I
4 had talked to had sought to receive services, and
5 there was such a backlog that it was hard to
6 physically, like, do a drop-in appointment. But
7 yes, it was there, but availability was limited.

8 Q. And was there less of the wait if you
9 wanted to do a virtual appointment?

10 MR. CIOLKO: Objection; speculation.

11 A. I'm not sure, because most students
12 wanted to do virtual appointments, I would imagine,
13 because there were not many students left on
14 campus. Once the pandemic hit -- I'm sorry -- to
15 clarify.

16 Q. So -- so -- I'm confused. The -- it
17 was hard to physically drop in to student health
18 services according to what you -- according to your
19 understanding, but was it easier -- do you know how
20 long of a wait there was for virtual appointments?

21 MR. CIOLKO: Objection; asked and
22 answered. You can answer.

23 A. I'm not sure of the exact time. But
24 speaking from this current semester, which we're
25 still kind dealing with the after affects, the wait

1 time is upwards of two months.

2 Q. Are you aware that the recreation
3 center provided virtual exercise classes following
4 the university's transition to remote instruction
5 in the spring 2020 semester?

6 A. Yes.

7 Q. And did you take advantage of any of
8 those?

9 A. Not that I remember.

10 Q. Do you know of any of your friends
11 that did?

12 A. I believe several of my friend did.
13 I believe they did, but I'm not sure of the
14 specifics.

15 Q. Are you aware that the university
16 continued to provide remote and virtual services to
17 students involved in fraternity and sorority life
18 following the university transition to remote
19 instruction in the spring 2020 semester?

20 A. Can you rephrase that? I'm sorry.
21 Access to the sororities or --

22 Q. No, just services. Well, let me ask
23 you this.

24 Are you aware that there's an office
25 at Penn called The Office of Fraternity and

1 Sorority Life?

2 A. Yes.

3 Q. And does that office support
4 fraternities and sororities?

5 A. Yes.

6 Q. And did that office continue to
7 provide services, if you know, during the second
8 half of the 2020 -- spring 2020 semester after the
9 pandemic hit?

10 A. Are you able to define what you mean
11 by services? Like, such as what?

12 Q. Whatever that office was doing prior
13 to the pandemic, was it able to provide at least
14 some of those services after the pandemic?

15 A. So it was providing housing for some
16 students, and they no longer received that housing.
17 So no.

18 Q. Did that office provide other services
19 other than housing?

20 MR. CIOLKO: Objection; form. You can
21 answer.

22 A. They were the governing body over all
23 the official fraternities and sororities. So it
24 was more of a -- like an umbrella organization, but
25 it was, I would say, more of the individual

1 sororities that determined the events.

2 But those sororities, which was not my
3 -- I was never in a leadership position in my
4 sorority. So my leaders were more aware of the
5 benefits of OFSL, and I got to see the aftermath or
6 results of whatever my leaders were doing.

7 Q. Understood. --

8 MR. CIOLKO: Is there a natural stop
9 for a break soon?

10 MR. KIDNEY: Sure, sure. How about
11 now?

12 MR. CIOLKO: I didn't want to -- if
13 you were still doing -- I didn't want to break in.

14 MR. KIDNEY: Nope. Nope. This was --
15 I was actually just thinking this was -- we should
16 take a break soon. So this is great. How long
17 would you guys like?

18 (A break was taken.)

19 BY MR. KIDNEY:

20 Q. So, Miss Nedley, you -- we earlier
21 talked about a book that was in career services
22 that relates to dental school. Does that book have
23 a name?

24 A. It's the ADEA Dental Explorer. There
25 might be a couple words after that, but that's the

1 general name.

2 Q. Okay. So if we go to someone in
3 career services, is that how we would ask for it,
4 the ADEA?

5 A. Yes.

6 Q. ADEA. Okay. And --

7 A. Like apple, dentist, Emma, apple.

8 Q. Okay. And the purpose of that book is
9 to help students who are applying to dental school?

10 A. Yes.

11 Q. And at the time you were looking for
12 that book, you were a second year?

13 A. Yes.

14 Q. And you applied to dental school in
15 your fourth year; is that correct?

16 A. Prior to my fourth year.

17 Q. Prior to your fourth year?

18 A. Yes.

19 Q. When did you apply?

20 A. I started the application process in
21 January of 2021, like, physically submitted.

22 Q. That was -- so that was in the middle
23 of your junior year?

24 A. Yes.

25 MR. CIOLKO: My son's --

1 BY MR. KIDNEY:

2 Q. The WCONLINE problems, were you able
3 to figure out a workaround?

4 A. I switched to Zoom, but the issue was
5 -- I was also having issues with Zoom. So any time
6 I would log into Zoom it would cut off, several
7 times.

8 Q. And did you eventually work those
9 issues out with Zoom?

10 A. No. There was no direct fix.

11 Q. So as a result, if you got kicked out
12 of Zoom, you would have to log back in?

13 A. Log back in. But sometimes the
14 connection did not work there either, so we would
15 have to switch to just a Google Drive document.

16 Q. And would the Google Drive document
17 enable you to fix the problem?

18 A. Well, there was no way to communicate
19 with the students directly over Google Drive. You
20 could leave a comment, but there was no way to
21 physically talk to the students.

22 Q. What would you do in that case?

23 A. There was nothing you really could do.
24 Students just didn't get the help that they needed.

25 Q. If you tried to get on Zoom and lost

1 the connection, you would try get back on Zoom, and
2 if the connection didn't work, you would end the
3 tutoring session early?

4 A. We would look to Google Drive, but
5 with that, because -- when on Zoom, we would share
6 a document and be face-to-face, both looking at a
7 document. So I -- but when Zoom didn't work, it
8 was just the document, but there was no way for the
9 student to effectively really communicate where
10 there issues were to ask for help.

11 Q. But they -- you could use the
12 telephone?

13 A. We're not supposed to disclose our
14 phone numbers.

15 Q. So you would have to use Google Drive
16 and then use emails?

17 A. Google Drive, you could -- there's a
18 chat function on Google Drive or Google Docs. And
19 also you could leave comments. But if the -- the
20 issue would be accessibility, because that took so
21 much time and nothing was really accomplished.

22 Q. Uh-huh. And how many -- how often
23 would that occur in the -- and I'm talking about
24 the spring 2020 semester post pandemic, would that
25 occur in 1 percent of the tutoring sessions, 95

1 percent of the tutoring sessions?

2 A. I would say 25 to 40 percent of them.
3 More than just once.

4 Q. Would you agree you were able to
5 participate in at least one service or activity
6 offered by the university after the university
7 transitioned to remote instruction in the spring of
8 2020 semester that was supported by the general
9 fee?

10 A. Can you elaborate on what services you
11 are detailing?

12 Q. So, for example, we -- we spoke
13 earlier about some of the services you used in the
14 first half of the spring 2020 semester, such as,
15 let's see, some of the clubs and organizations you
16 participated in, like the Christian athlete
17 organization or -- trying to go back through my
18 notes.

19 MR. CIOLKO: Michael, I'm probably
20 going to ask you to repeat the question in another
21 second.

22 MR. KIDNEY: Okay. Okay.

23 Q. Penn Athletics Wharton Leadership
24 Academy, Penn Athletics health and wellness
25 captain, dental society, those sort of

1 organizations we discussed prior to the break.

2 MR. KIDNEY: What was the question?

3 MR. KIDNEY: So let me ask --

4 MR. CIOLKO: What was the question?

5 MR. KIDNEY: Let me ask the question
6 again.

7 BY MR. KIDNEY:

8 Q. So would you agree that you were able
9 to participate in either, sometimes remotely, at
10 least one activity or service supported by the
11 general fee that was offered by the university
12 after the university transitioned to remote
13 instruction in the spring 2020 semester?

14 A. Yes.

15 Q. Good. I'm crossing things out I
16 already asked you, you'll be happy to know.

17 So there are multi-cultural houses at
18 Penn. Have you ever been to the multi-cultural
19 houses?

20 A. I don't identify with the groups.

21 Q. So you've never been to one of those
22 houses?

23 A. No.

24 Q. While you were in living at home in
25 the suburbs of Pittsburgh during the period of the

1 spring 2020 semester, that was -- that had remote
2 instruction. Did you make use of technological
3 services offered by the university?

4 A. Can you detail what you mean by
5 technological services?

6 Q. Well, at a minimum, I would say
7 something we've already discussed, participating in
8 Zoom, but then I'm going to ask you if you
9 participated in any other technological services.

10 A. I used Zoom and the WCONLINE platform,
11 which is what I tutor through.

12 Q. Anything else?

13 A. I used Perusal for classes, which is
14 supported through the Canvas Network, which is
15 where our classes are held. And that was just a
16 way to collaborate with students on a document.

17 Q. Did you make use of any learning
18 support yourself? We've already talked about you
19 tutoring. Did you make -- did you utilize any
20 learning support during the period of the 2020
21 spring semester that was remote?

22 A. I used office hours.

23 Q. Understood.

24 So let me turn and ask you about
25 computer lab facilities.

1 Prior to the pandemic, did you ever
2 use a computer lab at Penn?

3 A. Yes.

4 Q. And what did you use it for?

5 A. I used the computer for classes to sit
6 and to do work.

7 Q. Do you have your own computer as well?

8 A. I do.

9 Q. And so why did you -- why would you go
10 to a computer lab to use a Penn computer?

11 A. Because I didn't have enough room on
12 my computer to have as many documents open as I
13 needed at the time.

14 Q. And when -- and are we talking about
15 Word documents or more complicated documents?

16 A. Word documents, as well as Zoom and
17 just documents for classes. And syllabus.

18 Q. So how often would you -- let's say --
19 let's talk about the spring 2020 semester, first
20 half before the pandemic hit.

21 How often would you go to a computer
22 lab?

23 A. Less than five times. But I was often
24 there presenting papers, and I would say I
25 presented documents 10 to 20 times.

1 Q. And was there any limit on the number
2 of pages you can print?

3 A. Yes. There was a daily limit.

4 Q. And what was the daily limit? Do you
5 remember?

6 A. I believe 20 to 40 pages.

7 Q. And was there any special software you
8 needed access to in the computer lab?

9 MR. CIOLKO: Objection to the extent
10 it's been asked and answered. You can answer.

11 A. Not in the computer lab.

12 Q. Were there other places you needed to
13 go to access special software?

14 A. Yes.

15 Q. Tell me about that.

16 A. Yes. So I was in general chemistry
17 lab and physics lab at the time. And in order to
18 do those, we need the chemicals that were in the
19 computer labs, as well as different things for
20 physics, and I didn't have access to those.

21 Q. And so how did you solve that problem?

22 A. The university --

23 (Discussion held off the record.)

24 BY MR. KIDNEY:

25 Q. We didn't hear the answer to that. If

1 you're saying something, we can't hear it.

2 Are you going to call back in?

3 (Discussion held off the record.)

4 BY MR. KIDNEY:

5 Q. While we have a connection, I'll keep
6 going. We didn't hear your last answer. So let me
7 read you the last question.

8 MR. KIDNEY: Or maybe, Miss Court
9 Reporter, could you read the last question?

10 (The last question was read back by
11 the court reporter.)

12 THE WITNESS: So my professors
13 recorded -- had students. And people -- I believe
14 graduate students were still allowed -- no, ignore
15 that. So the professors that were still allowed on
16 campus for a few days, they had recorded themselves
17 performing the experiments, and that was supposed
18 to be the equivalent of me doing them.

19 BY MR. KIDNEY:

20 Q. Understood. Understood.

21 By the way, you mentioned graduate
22 students being on campus. So let's talk about the
23 softball team.

24 What percentage of your teammates on
25 the softball team stayed in West Philadelphia and

1 what percentage went home?

2 A. Everyone went home.

3 Q. Everyone. Okay.

4 And how about other students who were
5 not on the softball team who you were friends with,
6 do you have a rough percentage of your -- of the
7 people you knew who stayed in Philadelphia versus
8 those that went home?

9 A. I don't know anyone that stayed in
10 Philadelphia on campus. There were some people in
11 the suburbs, obviously, that went home.

12 Q. So let me see here. So while you were
13 at home, did you have any problems with Zoom such
14 that you had to speak live to somebody -- we
15 already talked about the WCONLINE. But I'm
16 thinking, did you have any other problems with Zoom
17 in terms of attending classes?

18 A. Several times I was unable to join
19 class or I was kicked out in the middle. And I
20 just did not have access to them.

21 Q. And were those classes recorded?

22 A. Some of them, yes. Other times I had
23 friends in the class that I would receive notes
24 from.

25 Q. And did you -- was there a

1 technological help line that Penn offered to call
2 where you could talk to someone who would help
3 solve some of these problems?

4 A. I'm not sure. But many of my friends
5 have the same issues, so it seemed like it was a
6 campus-wide thing.

7 Q. Would you agree that the university
8 did provide technological services to students in
9 the portion of the spring 2020 semester that was
10 remote?

11 A. Yes.

12 Q. And did you -- were you aware that the
13 university provided access to virtual computer labs
14 where special software was available remotely in
15 the portion of the spring 2020 semester that was
16 remote?

17 A. No.

18 Q. You mentioned in your Interrogatory
19 responses that you had problems doing work on
20 campus outdoors.

21 When were you on campus outdoors that
22 you had problems?

23 A. When I first was -- sorry. So the
24 days that we were officially told that softball was
25 cancelled and classes went virtually, I stayed on

1 campus for -- I don't remember the exact time.

2 Roughly, I would say less than a week before I went
3 home I had tried to do schoolwork on campus and the
4 WiFi connection just did not work.

5 Q. And what were the problems with SSO
6 and Perusal?

7 A. What was the first one you said?

8 Q. SSO.

9 A. Oh, that was the Zoom. It was our
10 student -- that stands for something. That was our
11 login for the university.

12 Q. Okay.

13 MR. CIOLKO: Let me slip in here to
14 say objection; asked and answered. But go ahead.

15 A. I'm sorry. What was the second one
16 you mentioned?

17 Q. Perusal?

18 A. Yes, with that --

19 Q. If that's how you say it.

20 A. Yes. I did not have strong connection
21 to that either.

22 Q. Have you reviewed your Interrogatory
23 responses recently?

24 A. Yes.

25 Q. And I can show them to you, but maybe

1 you remember off the top of your head.

2 Do you remember that in one of the
3 Interrogatory responses, you said you had not used
4 career services in spring of 2020 semester?

5 MR. CIOLKO: Michael, would you mind
6 if she refreshed her memory by looking at the
7 Interrogatories?

8 MR. KIDNEY: Sure.

9 Q. So this is one of the documents --
10 one, two, three, four, five, six -- the seventh
11 document in the ZIP is your responses to
12 Interrogatories. And if you look at Rog number 10.

13 MR. CIOLKO: And, Michael, this has
14 not been introduced yet, if you want to do that.

15 MR. KIDNEY: That is correct.

16 MR. CIOLKO: Are you introducing that
17 as an exhibit?

18 MR. KIDNEY: I'm not yet.

19 Q. There's a sentence that, plaintiff
20 further states that she did not utilize career
21 services from the university during the spring 2020
22 semester.

23 A. Can you repeat the question, please?

24 Q. So you had earlier told me -- well,
25 let me ask it another way.

1 Do you see in the Interrogatory
2 response where it says, plaintiff further states
3 that she did not utilize career services from the
4 university during the spring 2020 semester?

5 A. Yes.

6 Q. Is that accurate?

7 A. At this point, I did not use career
8 services because I didn't have access to the book.
9 Which is what I was using career services for at
10 that stage.

11 Q. And so --

12 MR. CIOLKO: Are you marking this?

13 MR. KIDNEY: I will later. I will
14 with this deposition.

15 MR. CIOLKO: Okay. Thank you.

16 MR. KIDNEY: Sure.

17 BY MR. KIDNEY:

18 Q. So in the first half of the spring
19 2020 semester, did you go to career services -- I
20 thought you earlier said you had. Is that wrong?

21 A. Not in person.

22 Q. And you had accessed career services
23 virtually in the first half of the spring 2020
24 semester?

25 A. Yes.

1 Q. How do you measure the value of your
2 experience at the University of Pennsylvania?

3 MR. CIOLKO: Objection; form.
4 Objection to the extent it calls for a legal
5 conclusion or expert testimony. But you can
6 answer.

7 A. Can you repeat the question, please?

8 Q. Sure. How do you measure the value of
9 your experience at the University of Pennsylvania?

10 MR. CIOLKO: Same objection.

11 A. Yeah, I'm not sure I can place a value
12 on my education or the experience.

13 Q. Do you -- go ahead.

14 A. No, you're good.

15 Q. Do you think other -- different
16 students value their experience at the University
17 of Pennsylvania differently?

18 MR. CIOLKO: Objection. Speculation.

19 A. I'm not sure.

20 Q. When you say you're not sure, as you
21 sit here today, do you have any basis to dispute
22 that different students value their education -- or
23 value their experience, rather, differently at the
24 University of Pennsylvania?

25 MR. CIOLKO: I'm going to repeat the

1 last two objections and asked and answered. But
2 you can answer if you can.

3 A. I would agree that people do have
4 different values based on where they come from.
5 What their expectations are, whether their parents
6 had this experience and they kind of know what to
7 expect. Whereas I came in seeing everything on
8 television and in ads and based on what my coach
9 was saying and previous experiences, and those are
10 my expectations and values. And things I looked
11 forward to and I think other students place value
12 on different things.

13 Q. Okay. So I will represent to you that
14 I'm now going to show you two documents from the
15 University of Pennsylvania production that
16 describes the general fee, clinical fee, and
17 technology fee.

18 The first document is a printout that
19 was available online on Penn's webpage in December
20 2019. So this is -- it has been Bates-stamped as
21 Penn 1196. It will be marked as Exhibit Number 7.

22 (Exhibit 7 was marked.)

23 A. Uh-huh.

24 Q. 1196 is the very last document in the
25 ZIP file that you were sent.

1 A. Yes.

2 Q. And you'll see this is a printout from
3 The Wayback Machine, the Google Wayback Machine.
4 And --

5 (Discussion held off the record.)

6 MR. KIDNEY: I'm sorry. Say that
7 again.

8 MR. CIOLKO: I said I can't argue
9 about this, Michael, because plaintiffs use it as
10 well.

11 BY MR. KIDNEY:

12 Q. All right. And the top half asks for
13 a contribution to The Wayback Machine. And then
14 below that, you will see a description of the
15 general fee, technology fee, and clinical fee on
16 what has been marked as Penn 00001197. Do you see
17 that?

18 A. 1197?

19 Q. Yes.

20 A. Yes.

21 Q. Take a minute and read what it says
22 under general fee, technology fee, and clinical
23 fee. Tell me when you're done reading.

24 A. I'm done.

25 Q. Do you recognize this language?

1 A. Yes.

2 Q. And when did you first see it?

3 A. Prior -- whenever I received my
4 initial financial aid package and was just looking
5 at the university in general.

6 Q. And I'm sorry. I didn't hear the last
7 thing you said.

8 Whenever you were looking into the
9 university's what?

10 A. In general.

11 Q. Okay. And so you saw that -- to be
12 clear, when you say your financial aid package,
13 this is the financial aid package you received
14 before you had accepted Penn's offer to be a
15 student?

16 A. I'm not sure if I received the
17 financial aid package -- I received it after I was
18 accepted.

19 Q. Okay. But before you attended your
20 first class at Penn?

21 A. Yes.

22 Q. Okay. And so let me show you now
23 another document. This is the last -- this is
24 right above the one I just showed you in the ZIP
25 file. The last four digits of the Bates number are

1 1191, and I'm going to have this -- this will be
2 marked eventually as Exhibit 8.

3 (Exhibit 8 was marked.)

4 BY MR. KIDNEY:

5 Q. And I can represent to you the ZIP
6 document, as you can see also from the top line, is
7 a printout of the language as it existed on -- in
8 June 2020. So after the conclusion of the spring
9 2020 semester. And I'd ask that you, again, just
10 look at the language describing general fee,
11 technology fee, and clinical fee on page 1193.

12 A. Okay.

13 Q. And one thing I'm going to ask you is
14 -- well, I'll ask it to you now then since you've
15 already read it.

16 Would you agree with me that the
17 descriptions of the three fees in these two
18 documents are identical?

19 A. Yes.

20 Q. So let me show you now the Nedley
21 complaint. And the Nedley complaint is the
22 complaint that was first filed on your behalf in
23 this lawsuit. It is the very first document in the
24 ZIP file, and it's going to be marked as Exhibit 9.

25 (Exhibit 9 was marked.)

1 MR. CIOLKO: The first document, did
2 you say?

3 MR. KIDNEY: Yes.

4 BY MR. KIDNEY:

5 Q. And then I'm going to ask you to go to
6 paragraph 20 in this complaint, which is on page
7 5.

8 A. I have it open.

9 Q. Okay. So our records indicate that
10 this complaint was filed on June 25th, 2020. Does
11 that sound right to you?

12 MR. CIOLKO: Let me look at the top.

13 A. Yeah. Yes.

14 MR. CIOLKO: Mike, before you ask your
15 next question, I want to remind the witness that no
16 matter what question that Mr. Kidney asked, you're
17 not to reveal any substantivwe conversations since
18 you retained us to investigate this matter and help
19 you put together this complaint. You are not to
20 reveal any work product that we may have shared
21 with you. But certainly, I want you to answer
22 Mr. Kidney's questions, but some of it may overlap
23 with material that would be privileged information
24 between the two of us.

25 THE WITNESS: Okay.

1 BY MR. KIDNEY:

2 Q. Yes, I will not ask you, Miss Nedley,
3 anything that you discussed with your counsel, any
4 conversations you had.

5 So looking at the language on page 5
6 in paragraph 20 of your complaint, would you agree
7 with me that the descriptions of the three fees are
8 identical to the language in the two documents I
9 just showed you?

10 MR. CIOLKO: To the best of your
11 ability.

12 THE WITNESS: Yes.

13 BY MR. KIDNEY:

14 Q. So let me show you now what it called
15 the consolidated complaint. And that is the second
16 document in the ZIP. And --

17 A. Is there a way to keep these documents
18 open?

19 Q. No, you can keep -- you can -- just
20 keep one of the documents we just looked at open.

21 MR. CIOLKO: Which one, Michael?

22 MR. KIDNEY: The December 2019 fee
23 description, which is the 1196.

24 Q. Okay. Now, let me direct your
25 attention to the consolidated complaint, which is

1 going to being marked as Exhibit 10.

2 (Exhibit 10 was marked.)

3 BY MR. KIDNEY:

4 Q. And I'd like you to go to page 5,
5 paragraph 28.

6 MR. CIOLKO: Page 5?

7 MR. KIDNEY: Yes.

8 MR. CIOLKO: See it?

9 THE WITNESS: Okay.

10 BY MR. KIDNEY:

11 Q. So in paragraph 28, do you see where
12 it says, the defendant describes the general fee as
13 supporting a variety of student-related activities,
14 services, and spaces?

15 A. Yes.

16 Q. Is that language in the quotations the
17 same as the language in the document that is open,
18 the December 2019 fee description that is four I
19 digits, 1196?

20 A. Yes.

21 Q. Did you rely -- so -- so let me show
22 you now paragraph -- in the same document, 147 to
23 149.

24 MR. CIOLKO: 140 -- which one?

25 MR. KIDNEY: So this is page 27 of the

1 consolidated complaint.

2 MR. CIOLKO: 27.

3 MR. KIDNEY: And go to paragraph 147.

4 MR. CIOLKO: 147?

5 MR. KIDNEY: Yes, 147.

6 MR. CIOLKO: Got you.

7 Q. And tell me when you're there, Miss
8 Nedley.

9 A. I'm here.

10 MR. CIOLKO: You want her to read
11 that, Michael?

12 MR. KIDNEY: I'm sorry?

13 MR. CIOLKO: Do you want her to read
14 that?

15 MR. KIDNEY: Yes.

16 MR. CIOLKO: If you want to read that
17 --

18 BY MR. KIDNEY:

19 Q. What I'll ask you to do is compare
20 paragraph 147 and paragraph 148 and paragraph 149
21 to the corresponding language in the other document
22 you have open, which represents the fee
23 descriptions in December 2019 and June 2020.

24 MR. CIOLKO: I want to note for the
25 record that 147, 148, and 149, the paragraphs cited

1 in there are -- have a footnote that is where those
2 documents were available and that I want to note
3 for the record.

4 MR. KIDNEY: Understood.

5 MR. CIOLKO: I haven't seen the
6 documents from that HTTPS website provided as the
7 Bates number, but it's incorporated into the
8 paragraph.

9 MR. KIDNEY: I understand your
10 position.

11 BY MR. KIDNEY:

12 Q. And, miss Nedley, go ahead and compare
13 the language. And I'm going to ask you if you
14 agree that the language from paragraphs 147, 148,
15 and 149 is different from the language in the fee
16 descriptions for December 2019 and June 2020.

17 MR. CIOLKO: I'm going to object to
18 form. One second. Let me -- I'm trying to catch
19 up and reading it myself. Yeah, I'll just object
20 to form.

21 BY MR. KIDNEY:

22 Q. You can answer if you can, Miss
23 Nedley.

24 A. I'm sorry. What was the question
25 again?

1 Q. The language in paragraphs 147 to 149,
2 would you agree that it's different from the fee
3 description than what will be Exhibit 7 and 8,
4 which are the fee descriptions for -- printed out
5 for the time period between December 2019 and June
6 2020?

7 MR. CIOLKO: Objection; form. But --

8 A. Yes.

9 MR. CIOLKO: -- if you know what
10 Mr. Kidney is asking, please answer.

11 A. Yes. Yes.

12 Q. You agree that they're different?

13 A. Yes.

14 Q. And do you recognize the fee language
15 in paragraphs 147 to 149?

16 A. Yes.

17 Q. When did you first see this fee
18 language?

19 MR. CIOLKO: Again, I'm going to
20 instruct my client not to reveal any substantive
21 discussions we may have had. But please answer
22 Mr. Kidney.

23 A. I'm unsure of the exact date.

24 Q. Are you sure you've seen this language
25 before today?

1 MR. CIOLKO: Objection; asked and
2 answered.

3 MR. KIDNEY: Well, I don't --

4 MR. CIOLKO: You should answer. You
5 should answer Mr. Kidney's question.

6 A. Can you repeat the question, please?

7 Q. Sure. Miss Nedley, you said you're
8 unsure of the exact date when you seen this
9 language before. So my follow-up question is: Are
10 you sure you've seen this language before even if
11 you're unsure of the exact date?

12 MR. CIOLKO: Objection; asked and
13 answered.

14 A. And yes.

15 Q. Yes, you're sure you've seen it
16 before?

17 A. Yes.

18 Q. Other than seeing it in connection
19 with meeting with your lawyer, which I don't want
20 to know about, do you have a recollection of
21 reviewing this language at some prior time?

22 A. Yes.

23 Q. And even if you're unsure of the date,
24 can you tell me approximately when you saw this
25 language for the first time?

1 A. Within the last year.

2 Q. Okay. Let me direct your attention
3 back to what I'll call the December 2019 fee
4 description, which, again, is -- ends in 1196.

5 And did you rely on this language
6 before deciding to register for the spring 2020
7 semester?

8 MR. CIOLKO: Objection to the extent
9 it calls for a legal conclusion. But you can
10 answer.

11 A. Did I rely on this language?

12 BY MR. KIDNEY:

13 Q. Yes. Let me ask it another way.

14 Would you have registered to attend
15 Penn regardless of what this language said?

16 MR. CIOLKO: Objection; speculation.

17 A. No.

18 Q. Tell me more. Why -- why -- why do
19 you say no?

20 MR. CIOLKO: Same objection. But
21 answer if you can.

22 A. Because I would want to see where my
23 money is going and to what services.

24 Q. And so is there any language that
25 would have prevented you -- let me ask it another

1 way.

2 Did you make the decision to attend
3 the University of Pennsylvania before you saw this
4 language?

5 MR. CIOLKO: Objection to the extent
6 it's been asked and answered. But you can answer.

7 A. I'm not sure.

8 Q. Did you earlier tell me that you
9 thought you received this language with your
10 financial aid offer, which was after -- which was
11 before you first attended classes, but after you
12 had decided to attend?

13 A. Yes.

14 Q. Is there anything in the language in
15 this document that we're looking at for the general
16 fee technology fee or clinical fee that you
17 consider a promise?

18 MR. CIOLKO: One clarification,
19 Michael. You're talking about the 1196 document?

20 MR. KIDNEY: Yes, I am.

21 MR. CIOLKO: Okay. I'm going to
22 object to the extent it calls for a legal
23 conclusion. You can answer.

24 A. It promises me access to activities,
25 services, spaces, computer labs, technological

1 services, and student health.

2 Q. Other than the general fee the
3 clinical fee, the technology fee, are there any
4 other fees that are you seeking to have partially
5 refunded as part of the litigation as you sit here
6 today?

7 MS. CIOLKO: Objection to the extent
8 it's been asked and answered. But you can answer.

9 A. No.

10 Q. Other than the documents reviewed
11 today, are there any other documents that you
12 contend represent a promise by Penn related to the
13 fees at issue in this case?

14 MR. CIOLKO: I'll object to the extent
15 it calls for a legal conclusion and to the extent
16 that it would cause you to answer -- and your
17 answer would be -- your answer would bring to light
18 discussion that you have had with your attorney and
19 involving attorney work product. Aside from that,
20 you can answer the question.

21 A. Can you repeat the question?

22 Q. Sure. Other than the documents that
23 we have reviewed today, are there any other
24 documents that you contend represent a promise by
25 Penn related to the fees at issue in this case?

1 A. Not as of now.

2 MR. CIOLKO: Same objection. But go
3 ahead. So repeat your answer.

4 A. No, not as of now.

5 BY MR. KIDNEY:

6 Q. Would you -- we had earlier reviewed
7 the financial responsibility statement. Do you
8 remember that?

9 A. Can I references that again?

10 Q. Yes. Sure. It is the fourth document
11 in the ZIP. It's called docket 26-4, financial
12 responsibility statement for Emma Nedley. It will
13 marked as Exhibit 3. And I'll give you the Bates
14 number. It does not have a Bates number because
15 it's already filed with the court.

16 MR. CIOLKO: Which one is that?

17 MR. KIDNEY: But -- so it's the very
18 fourth document in the ZIP file.

19 MR. CIOLKO: I got it.

20 MR. KIDNEY: And it's a --

21 MR. CIOLKO: It's docket 26.4?

22 MR. KIDNEY: Yes.

23 MR. CIOLKO: Got it.

24 THE WITNESS: I have it.

25 BY MR. KIDNEY:

1 Q. Okay. Here's my questions to you,
2 Miss Nedley.

3 Do you agree that this document does
4 not make any specific promises in regard to fees?

5 MR. CIOLKO: Objection to the extent
6 it calls for a legal conclusion. Otherwise, you
7 can answer. Take your time.

8 A. Can you repeat the question, please?

9 Q. Sure. So we earlier talked about the
10 language for the general fee, technology fee, and
11 clinical fee. Now I'm asking you a different
12 question which relates to this financial
13 responsibilities statement.

14 And my question is: Do you agree that
15 that document did not make any specific promises in
16 regard to fees?

17 MR. CIOLKO: Same objection. You can
18 answer.

19 A. Yes.

20 Q. Do you have an understand, Miss
21 Nedley, as to whether -- and you can put that
22 document down now. Thank you. Or close it.

23 Do you have an understanding as to
24 whether Penn was able to drastically reduce cost
25 during the spring 2020 semester?

1 MR. CIOLKO: I'm going to object only
2 to the extent that I ask that you not reveal any
3 information regarding discussions between you and
4 your lawyers or the investigation that's undertook
5 or undertaking with regard to such costs.

6 A. Yes, I'm aware that there were
7 measures cut.

8 Q. That there were -- I'm sorry. Did you
9 say measures cut?

10 A. Yes. By the university.

11 Q. And how did you -- what is the source
12 of your information for that?

13 A. Based on my own experience as well as
14 others in my class.

15 Q. And do you have an understanding as to
16 whether, as a result of these measures, Penn was
17 able to save money during the spring 2020 semester?

18 MR. CIOLKO: I'll give you the same
19 direction and object to the extent it calls for
20 expert testimony. But you can answer.

21 A. Yes, they were able to save money.

22 Q. And do you have an expectation as to
23 whether the cost incurred by Penn in the spring
24 2020 semester are lower or higher than the costs in
25 the prior semester in the spring of 2019?

1 MR. CIOLKO: Objection. And objection
2 to form. But you can answer.

3 A. You mean operating costs, like, that
4 the university has? Can you specify what you mean
5 by costs?

6 Q. All costs. So every type of cost
7 where the university has to pay money out, whether
8 that's building maintenance, salaries, anything
9 where money is paid by the university.

10 MR. CIOLKO: Same objection and
11 direction.

12 A. I believe their costs were decreased.

13 Q. Would it -- would it surprise you to
14 learn that if you looked at the budget and cost
15 information for the university, including in the
16 annual report of the university, that the costs
17 were higher in the spring of 2020 as compared to
18 the spring of 2019?

19 MR. CIOLKO: I'm going to object as
20 speaking to evidence that is not in the record.
21 And evidence that is also subject to differing
22 legal and expert testimony. But you can answer if
23 you can.

24 A. I'm not aware of that.

25 Q. Would it surprise you if you did learn

1 that that was true?

2 MR. CIOLKO: Same objection.

3 A. Yes.

4 Q. Did you save any money by not
5 attending -- by not attending school and attending
6 classes in person in the spring of 2020 semester
7 and living at home?

8 MR. CIOLKO: Objection; form.

9 A. No.

10 Q. You're graduating on time -- or you
11 plan to graduate on time and consistent with what
12 your -- what you have always planned to be your
13 expected graduation date, since you matriculated to
14 the university; is that correct?

15 A. Yes.

16 Q. Did you ever complain to the
17 University of Pennsylvania about the services it
18 provided following the onset of the pandemic in
19 spring 2020?

20 MR. CIOLKO: I'll only object to the
21 extent it's been asked and answered. You can
22 answer.

23 A. No.

24 Q. Prior to the start of this litigation,
25 did you ever ask Penn for a refund of the general

1 fee, technology fee or clinical fee?

2 MR. CIOLKO: Objection to form. Only
3 as to time.

4 A. As to what?

5 MR. CIOLKO: As to time, the timeframe
6 we're talking about.

7 A. Oh. No.

8 Q. Did you send any letters or emails
9 complaining about Penn's response to COVID?

10 MR. CIOLKO: Objection; form. You can
11 answer.

12 A. Yes. In terms of transportation home.

13 Q. And tell me about that. Who did you
14 complain to?

15 A. The financial aid office.

16 Q. And what did you say?

17 A. How am I supposed to get home?
18 Because I don't have a car.

19 Q. And then did they -- were they the
20 ones that said you should rent -- you can rent a
21 car and bill us for the cost?

22 A. Yes.

23 Q. So were you satisfied with their
24 response?

25 A. To that, yes.

1 Q. Aside from your contention that you're
2 entitled to a refund, overall, are you happy with
3 how the University of Pennsylvania responded to the
4 COVID pandemic?

5 A. No.

6 Q. Tell me why not.

7 MR. CIOLKO: Objection to relevance
8 and form. But you can answer.

9 A. I have now been online for several
10 semesters when I had anticipated a completely
11 in-person education. And I'm starting school on
12 Wednesday online again.

13 Q. And do you think -- if you were in
14 charge and you were the president of Penn, what
15 would you do?

16 MR. CIOLKO: Objection; form,
17 relevance.

18 Q. About this issue.

19 MR. CIOLKO: Go ahead. You can
20 answer.

21 A. I'm not the president of Penn for a
22 reason.

23 Q. Well, your -- you just told me you are
24 not happy because you are -- your classes are
25 online beginning on Wednesday. Is that correct?

1 MR. CIOLKO: Objection as to form.

2 But you can answer.

3 A. Yes. And they have been online for
4 some time now.

5 Q. And what do you -- is there anything
6 -- is this something that is -- is this Penn's
7 fault or is this just due to the pandemic?

8 MR. CIOLKO: Objection; speculation.
9 Objection; form.

10 A. Other universities have been making it
11 work. So I don't understand why Penn has not been
12 able to, also.

13 Q. And when you say by making it work,
14 you mean present -- you mean have in-person
15 classes?

16 A. In-person classes with low positivity
17 rates.

18 Q. So -- so let me make sure I
19 understand. Your -- your complaint is that Penn
20 has been relying too much on online courses and
21 online instruction?

22 MR. CIOLKO: Objection to form and
23 mischaracterizing her prior testimony. You can
24 answer.

25 A. It's not only that Penn is relying on

1 online classes, but when I had chose to come to the
2 university and continue to come back, it's with the
3 expectation of having access to all of these other
4 things, like athletics and the ability to talk to
5 other people and make connections and use career
6 services and get top notch healthcare and
7 everything like that. And that is not being
8 fulfilled.

9 Q. And is your softball team meeting this
10 semester?

11 A. As of now. But it's been cancelled
12 the last two semesters -- two years. Sorry.

13 Q. So let me introduce to you or show you
14 again the document I showed you before, which is
15 your Interrogatory responses. And that is in the
16 ZIP file midway down. It's called Nedley responses
17 to interrogatories. Tell me when you have them.

18 MR. CIOLKO: It's the one I don't have
19 open.

20 MR. KIDNEY: This is going to be
21 marked as Exhibit Number 11.

22 (Exhibit 11 was marked.)

23 MR. CIOLKO: I got it.

24 BY MR. KIDNEY:

25 Q. Do you recognize this document?

1 A. Yes.

2 Q. And you have -- when is the last time
3 you read through this document?

4 A. This week.

5 Q. And was there anything in here that
6 was inaccurate or that you thought should be
7 supplemented?

8 A. One second, please. Can you repeat
9 the question, please?

10 Q. Sure. Is there anything in this
11 document that is not accurate or that should be
12 updated?

13 A. No.

14 Q. Prior to the finalization of this
15 document, did you assist with the preparation of
16 the document?

17 MR. CIOLKO: Objection; form. You can
18 answer.

19 A. Yes.

20 Q. Let me show you now -- you can close
21 that document. Let me show you your RFP responses.
22 And this will be marked as Exhibit 12. And this is
23 in the ZIP file, and it's called, Nedley and Smith
24 responses to RFPs.

25 (Exhibit 12 was marked.)

1 MR. CIOLKO: Hold on. I'm an old man.
2 I move slow.

3 MR. KIDNEY: You're a young man, Ed.
4 Don't kid yourself.

5 MR. CIOLKO: Not what my neck and
6 knees are telling me. I've got the doc. Thank
7 you.

8 A. Yes.

9 BY MR. KIDNEY:

10 Q. Do you recognize this document, Miss
11 Nedley?

12 A. Yes.

13 Q. Have you read this document in the
14 last week?

15 A. Yes.

16 Q. I'm going to ask you the same
17 question. Is there anything in this document that
18 is inaccurate or that should be updated?

19 MR. CIOLKO: I'll have a small
20 objection to the extent it calls for a legal
21 conclusion. But take your time. Read through.
22 Lawyers write a lot.

23 THE WITNESS: I can see that.

24 MR. KIDNEY: Jim, this one is your
25 fault.

1 (Discussion held off the record.)

2 MR. CIOLKO: Miss Nedley, I can't hear
3 you again.

4 (Discussion held off the record.)

5 BY MR. KIDNEY:

6 Q. So, Miss Nedley, do you want me to
7 repeat the question?

8 A. No. It's okay. Everything looks
9 fine.

10 Q. Okay. Prior to the initial complaint
11 being filed, the Nedley complaint, have you read
12 it?

13 A. Yes.

14 Q. Prior to the consolidated complaint
15 being filed, have you read it?

16 A. Yes.

17 Q. Were there any specific parts of the
18 consolidated complaint that you provided
19 information for?

20 MR. CIOLKO: I'm going to warn you
21 again one more time that we're really -- it's
22 difficult to answer the question without revealing
23 communications.

24 So could you word it a different way,
25 Michael, because I might have to instruct her not

1 to answer. I don't want to.

2 BY MR. KIDNEY:

3 Q. Yeah, I don't want to know anything
4 you said to your counsel. And I certainly don't
5 want to know about anything you said that didn't
6 end up in the Complaint.

7 But is -- are there any sections of
8 the complaint that was filed with the court that
9 you provided specific information for?

10 A. Several different aspects.

11 Q. Say that again?

12 A. Several different aspects.

13 Q. Okay. And do you recall what those
14 were off the top of your head?

15 MR. CIOLKO: To the best you can, best
16 ability. And if you feel yourself getting to an
17 area that -- it's discomfort because something came
18 about through discussions between the two of us or
19 Bailey or Nick, I'm going to instruct you not to
20 answer that.

21 A. From an undergraduate perspective.

22 MR. CIOLKO: That's the answer.

23 A. Yes. I provided information from an
24 undergraduate perspective.

25 MR. CIOLKO: That's a good way to put

1 it.

2 Q. Did you read Penn's motion to dismiss
3 the consolidated complaint?

4 A. Can you point me towards that?

5 MR. CIOLKO: I'm sorry.

6 A. You're fine. I can still see it here.

7 MR. CIOLKO: Can you hear us, Michael?

8 MR. KIDNEY: Yes. Yes.

9 MR. CIOLKO: Miss Nedley asked if you
10 can point her to that document.

11 MR. KIDNEY: Oh, it's not a document
12 that we have as an exhibit. So let me rephrase the
13 question.

14 Q. Do you -- as you sit here today, do
15 you -- have you -- do you recall reading a document
16 that is entitled, motion to dismiss the
17 consolidated complaint?

18 MR. CIOLKO: Same direction as before.
19 But answer if you can.

20 A. Yes.

21 Q. And when did you review that document?

22 A. I'm really not sure.

23 Q. A long time ago?

24 MR. CIOLKO: Objection to form.

25 A. Throughout my time at the University

1 of Pennsylvania.

2 Q. How much time have you spent on this
3 case, approximately?

4 A. On what? I'm sorry.

5 MR. CIOLKO: You're cutting out at the
6 end.

7 BY MR. KIDNEY:

8 Q. How much time have you spent on this
9 case, approximately?

10 A. Around a year and a half.

11 Q. No, I mean how many hours have you put
12 into this case, approximately?

13 MR. CIOLKO: Objection to the extent
14 it's asked and answered. But you can answer.
15 Don't be shy.

16 A. Roughly, Like, 24 hours.

17 Q. How much time do you expect to spend
18 on this case in the future? How many hours?

19 MR. CIOLKO: I only object to the
20 extent it calls for legal conclusions. But you can
21 answer.

22 A. I honestly have no clue.

23 MR. CIOLKO: Maybe too honest.

24 BY MR. KIDNEY:

25 Q. If a class is certified, what is your

1 understanding of what your relationship is to the
2 other class members?

3 A. I will serve as a representative for
4 the class and all others impacted and be the voice
5 for the entire group.

6 Q. Have you ever been a defendant in a
7 lawsuit?

8 A. No.

9 Q. Have you ever been part of another
10 class action?

11 MR. CIOLKO: Objection only to the
12 extent it calls for legal conclusion. But go
13 ahead, answer.

14 A. No.

15 Q. So let me clean up some things. I'm a
16 bit confused about some of the information about
17 who is paying for your bills at Penn. Let me ask
18 you to look at Penn 866. That's in the ZIP file.
19 Tell me when you're there. It's marked as Exhibit
20 5. It's the Nedley award notice.

21 A. I'm there.

22 Q. And on the very last page, it says,
23 expected family contribution, \$24,620. Do you see
24 that?

25 A. Yes.

1 Q. Now, I understand from your earlier
2 testimony that your parents have paid your rent and
3 your dining hall charges. Is that correct? Did I
4 get that right?

5 A. Yes.

6 Q. But that still leaves quite a
7 significant expected family contribution. Dining
8 hall charges we said are about 1400 a semester. So
9 if you take that 24,620, and your parents pay the
10 rent and the dining hall charges, are they -- am I
11 understanding correctly that they are also paying
12 something else, or are you saying you're paying the
13 entire balance of that 24,000 minus the dining hall
14 and rent charges?

15 A. I've taken out loans to help pay for
16 my education and then have used savings.

17 Q. Okay. But there's also been -- your
18 account statement indicates that there's -- well,
19 let me ask you this.

20 How much have you paid from your
21 savings to the University of Pennsylvania?

22 MR. CIOLKO: Are you asking for the
23 whole time she's been there?

24 MR. KIDNEY: Yes.

25 A. I'm not sure of the exact breakdown.

1 I would have to look.

2 Q. That's fine. I'm not looking for an
3 exact amount. I'm -- I'm just looking for an
4 approximate amount.

5 MR. CIOLKO: Are you looking for a
6 percentage, Michael?

7 MR. KIDNEY: Nope. An approximate
8 amount, a number.

9 Q. Let me ask it this way, Miss Nedley.
10 I imagine when you started work --
11 when you started attending school at the University
12 of Pennsylvania, you had a savings account or a
13 checking account; is that correct?

14 A. Yes.

15 Q. And I imagine you know how much money
16 you saved for the university -- to attend the
17 University of Pennsylvania; is that correct?

18 A. Relatively. I received scholarships
19 that I mentioned earlier.

20 Q. Okay. And how much of the -- what was
21 your bank account value at the beginning of the
22 time that you attend the University of
23 Pennsylvania?

24 MR. CIOLKO: I'm going to object as to
25 form and relevance. But you can answer, if you

1 remember.

2 A. I'm not sure of the exact number. I
3 believe I have received roughly 10,000 in
4 scholarships, outside scholarships. And then I had
5 also received money from, like, a graduation type
6 party. But early on in my --

7 Q. How much -- I'm sorry.

8 A. I'm sorry.

9 Q. How much money did you get from the
10 graduation type party?

11 MR. CIOLKO: Same objection.

12 A. Between, like, 8 to \$12,000.

13 Q. In addition to the 10,000 in
14 scholarships?

15 A. Yes.

16 Q. Okay. Now, I know -- I don't want you
17 -- I know you don't know the exact amount in your
18 checking or savings account at the time you started
19 at Penn. Can you give me an approximate value?

20 MR. CIOLKO: If you can.

21 A. It was changing in and out. I would
22 say it stayed around, like, 12 to \$15,000.

23 Q. Before you attended Penn.

24 A. Yes. Because I didn't get most of the
25 scholarships until after, and some of those went

1 directly to the school.

2 Q. And how much of that 12 to 15,000, how
3 much of that did you pay to Penn?

4 A. All of it.

5 Q. All of it. Okay.

6 So let me make sure I understand. So
7 your parents paid for housing and meals. You have
8 paid -- and then there was 10,000 in scholarships,
9 8 to 12,000 from a party, and then 12 to 15,000
10 from your savings?

11 A. Yes.

12 Q. And then -- and for most -- for most
13 of the 10,000 in scholarships, you -- that money
14 went directly to Penn; is that correct?

15 A. Some of it. I don't remember the
16 exact breakdown.

17 Q. Okay. So -- so here's where this
18 doesn't add up for me. When we go to the
19 spreadsheet -- and I can do it with you and take
20 the time to do it with you. But the spreadsheet
21 shows that there have been payment cash payments of
22 53,000 so far, that is in addition to the loans.

23 So if you only had 12 to 15,000 in
24 your checking or savings account, and then you had
25 8 to 12 from the party, and then 10 -- less than 10

1 for the scholarship, that still doesn't account for
2 quite a bit of money that somebody is paying to
3 Penn on your behalf. So I'm wondering if your
4 parents -- perhaps you are forgetting that perhaps
5 your parents did pay money to Penn that goes beyond
6 your housing and dining hall charges.

7 MR. CIOLKO: I'm going to object to
8 the multiple compound parts of that question. And
9 you can answer. You already have asked and
10 answered this question multiple times. So if you
11 can provide an answer that's different than before
12 or confirm, that's fine. But answer if you can.

13 A. Does that take into account the money
14 from my great aunt and great uncle?

15 Q. For your what? I'm sorry.

16 A. From my great aunt and great uncle.

17 Q. You said they're paying for your
18 senior year; is that correct?

19 A. Yes, I believe that's what -- I would
20 have to touch base with them.

21 Q. I'm sorry. Say that again?

22 MR. CIOLKO: Go ahead.

23 A. I'll re-talk to them.

24 Q. Okay. All the money that I see in the
25 spreadsheet, it is -- this spreadsheet date is July

1 and -- the latest date is August 9th of 2021.

2 So almost all this money that has been received --
3 has been received prior to your last year. And
4 it's all through the Penn.Pay payment system. And
5 it's --

6 A. I don't --

7 Q. It's totally separate --

8 MR. CIOLKO: Let Michael finish.

9 A. You're good.

10 Q. I'm sorry?

11 A. You're good.

12 BY MR. KIDNEY:

13 Q. I was going to say it's separate from
14 your plus direct loan refund and the Pennsylvania
15 state grants.

16 MR. CIOLKO: I'm going to say
17 objection to the form of the question. She's given
18 you her answers about where the money came from.
19 And she's answered about whether she's -- whether
20 she knows whether there's additional parts from it.

21 Frankly, I can't go through this
22 spreadsheet and confirm that what you're saying is
23 correct about distribution of monies. So I don't
24 think this question is appropriate.

25 MR. KIDNEY: Ed, I was just trying to

1 -- not to drag out this deposition. But if -- if
2 -- if you want me to go into more detail, we can --
3 we can do that. And I can explain -- we can sort
4 this right now and explain how we, on the break,
5 got to this 53,000 number.

6 MR. CIOLKO: You just got to that
7 number on a break today?

8 MR. KIDNEY: Yeah.

9 BY MR. KIDNEY:

10 Q. So if you -- do you know how to sort a
11 Microsoft Excel, Miss Nedley?

12 MR. CIOLKO: I'm not going to have
13 Miss Nedley sort an Excel spreadsheet.

14 Q. Do you know how to sort an Excel
15 spreadsheet, Miss Nedley?

16 A. No.

17 Q. No?

18 A. (Witness shakes head.)

19 Q. Okay. So do you -- as you sit here
20 today, Miss Nedley, do you remember ever making a
21 payment to Penn from your checking account or your
22 savings account?

23 A. Yes.

24 Q. Yes?

25 And do you have a -- are you a

1 Penn.Pay authorized user?

2 A. I believe so.

3 Q. Okay. And when you make payments to
4 Penn, how have you made those payments? Do you
5 make -- do you write a check? Do you do an
6 electronic fund transfer? How did you do that?

7 A. I've done both.

8 Q. Okay. And do you still have those
9 checks?

10 A. I'm not sure. I would have to look.

11 Q. Okay. I'd ask that if you still --
12 I'd ask that you look for those checks and send
13 copies of them to your lawyer. And if you have
14 records of electronic funds transfers that you did
15 versus your parents, I would ask that you send
16 those to your lawyer as well.

17 What -- when you wrote a check, what
18 is the bank that you wrote the check? On what is
19 the name of the bank?

20 A. Westmoreland.

21 Q. I'm sorry. That was really --
22 MR. CIOLKO: Say it a little louder.

23 A. Westmoreland County Federal Credit
24 Union.

25 Q. Okay.

1 A. It's changed names, though.

2 Q. And what is its new name?

3 A. Pheple, P-H-E-P-L-E.

4 Q. And your parents have an account at
5 the same institution?

6 MR. CIOLKO: That's -- I'm going to
7 object to that question and advise you not to
8 answer.

9 That's her parents' private matters.
10 You have -- Penn has all this information in its
11 own -- you know, within its own payment systems.
12 I'm not going to have my client talk about her
13 parents' financial institutions unless you want to
14 mark this part of the deposition highly
15 confidential. And even then, I would have to get
16 permission of her parents.

17 MR. KIDNEY: Ed, there is an issue in
18 this case -- I mean, the documents that I have
19 shown to you shows that Miss Nedley's family was
20 expected to contribute \$100,000, and over four
21 years. And even if you assume that the great aunt
22 and uncle paid for the last year, that's \$75,000.
23 And there is -- this just does -- is not adding up.

24 MR. CIOLKO: You can argue that then
25 -- she didn't pay -- she paid money herself.

1 That's been established beyond a doubt. So I don't
2 know what -- what you're trying to prove. She has
3 paid her own money herself for fees and tuition.
4 Other than that, I don't know what's relevant of
5 that certification.

6 MR. KIDNEY: What is relevant is there
7 is a possible issue of standing to the extent that
8 Miss Nedley's parents paid a portion of this. And
9 it seems -- I don't know of any explanation other
10 than that they have paid a portion of this.

11 If you are instructing the witness not
12 to answer, we'll ask the court to give adverse
13 inference to that because we're trying to obtain
14 information that we think is relevant to who is in
15 and not in the class. And you've also told the
16 witness not to manipulate the Excel sheet. We're
17 not -- all we're trying to do is refresh the
18 witness's recollection because it's obvious that a
19 bank account of 8 to 12,000 can't pay \$75,000 in
20 costs even after you account for loans.

21 MR. CIOLKO: Well, loans.

22 MR. KIDNEY: And --

23 MR. CIOLKO: You have not asked any
24 questions about employment and summer employment.
25 The 8 to \$12,000 is her money she got from

1 graduation, not anybody else's money. That's her
2 money she got from graduation, as well as
3 additional scholarships. So I don't know if you
4 want to send me a letter that shows me what the gap
5 in the money is.

6 And I -- I want Miss Nedley to say if
7 she remembers her -- any of her family members,
8 whether it's her great aunt or uncle or parents or
9 what have you, if she remembers anyone else
10 specifically, a non-loan person or a non-school or
11 non-scholarship or non-funds of her own. I want --
12 I'm not instructing her not to answer that.

13 What I'm saying is, don't -- don't --
14 you don't need to tell the defendant where your
15 parents keep their money. That's the only thing I
16 say no to.

17 MR. KIDNEY: I --

18 MR. CIOLKO: And --

19 MR. KIDNEY: That is relevant to --
20 you -- the class has been defined as people who
21 have paid feeds. And we're trying to figure out if
22 Miss Nedley's parents are in the class or not. And
23 that is certainly relevant.

24 And we are trying to -- I have -- we
25 have -- I am trying to explain and get some

1 information to help the witness refresh her
2 recollection as to whether her parents would have
3 paid for more than room and board. It's simply
4 that.

5 MR. CIOLKO: And dining, correct?

6 MR. KIDNEY: Yes. Dining, I'm
7 thinking of, is included in room and board. But
8 we're happy if Miss Nedley knows the name of the
9 bank where -- her parents' bank, to put that under
10 highly confidential.

11 A. I would like to --

12 MR. KIDNEY: No, we're not -- we're
13 not.

14 MR. CIOLKO: I'm not going to allow
15 her to answer that today. I need her to speak to
16 her parents.

17 MR. KIDNEY: Well, we -- I will just
18 note for the record then we would hold this
19 deposition open in order to obtain that
20 information. And we also think it is relevant to
21 the class certification deadline. It's also
22 relevant to the class certification hearing.

23 So I want to note for the record that
24 I disagree with that. I think it's improper. And
25 we're -- it's not getting into a privileged area.

1 And we're also happy to afford any protections,
2 including highly confidential.

3 MR. CIOLKO: I think my response to
4 that is -- let me respond to that. Because I do --
5 not arguing necessarily the relevance of the basic
6 question, which was what were the sources of the
7 funds from Miss Nedley's education. And really,
8 the only thing that matters is for that spring
9 semester, so anything beyond that is frankly
10 irrelevant to this case.

11 I think I've been allowed a lot of
12 leeway to ask questions that are quite personal and
13 have nothing to do with the semester that we're
14 talking about here. So I'm happy to have Miss
15 Nedley answer now and then for us to go back and
16 relook and try to figure out what the other --
17 where -- where your blank spot is and where the
18 funds are coming from. I'm happy to do that.

19 If you wanted to lay that up, then I
20 would put that in the spreadsheet and say, where
21 did this amount of money come from? And I'm happy
22 to look at that and show Miss Nedley that. She's
23 not able to answer now and say, let's figure out
24 exactly where the rest of this money came from,
25 especially with regards to spring 2020 semester.

1 Beyond that, I will try to get
2 response to documents, but there's -- to me,
3 there's a direct relevance objection, even the
4 class certification, about who paid money beyond
5 the spring 2020 semester.

6 MR. KIDNEY: I understand.

7 MR. CIOLKO: Besides the spring 2020
8 semester, you can answer Mr. Kidney's question.

9 A. What was the question?

10 BY MR. KIDNEY:

11 Q. The question that was on the table
12 was: Where do your parents have an account? So I
13 don't have any -- and your counsel has directed you
14 not to answer that.

15 But -- so why don't we -- we -- your
16 counsel and I have stated our objections for the
17 record, so I will move on.

18 I have one -- I'm going to take -- I
19 think I have just one more question, which is --
20 which we can handle this over -- why don't we take
21 a break and give you a chance to read it over. But
22 I'm going to ask you about Nedley responses to
23 RFAs, and I'm going to ask you the same question
24 that I asked earlier about the RFPs and the
25 interrogatories, which is: Is there anything in

1 that document that is either inaccurate or should
2 be supplemented? That will probably be my last
3 question.

4 But I'm also going to take a break.
5 And Mr. Clayton, who is smarter than I am, may give
6 me a couple more questions.

7 MR. CIOLKO: So you want Miss Nedley
8 to look at RFAs and the Rogs?

9 MR. KIDNEY: Yes. Just the RFAs.

10 MR. CIOLKO: Right. Because you
11 already looked at the --

12 MR. KIDNEY: Yes, just the RFAs. She
13 already looked at the Rogs.

14 MR. CIOLKO: Okay. She'll do that.

15 MR. KIDNEY: And that is in the ZIP
16 file. And so then why don't we take a ten-minute
17 break and be back at 3:30, and then I'll ask you if
18 you have any changes to the RFA responses.

19 MR. CIOLKO: Okay. Deal.

20 MR. KIDNEY: All right. Thank you.

21 (A break was taken.)

22 MR. CIOLKO: With Bailey and Emma's
23 help, we were able to work out a few things. Now,
24 I focused on, for what I believe relevance reasons
25 but also for expediency reasons, on the spring 2020

1 portion of the spreadsheet you provided. We have
2 to double-check that. But the payments that were
3 made during that semester, Penn payment I guess
4 it's called --

5 MR. KIDNEY: Yes.

6 MR. CIOLKO: -- actually made by the
7 Plaintiff. But we want to confirm that and send
8 you confirmation.

9 MR. KIDNEY: Okay. And --

10 MR. CIOLKO: And as to any money
11 provided by -- I don't want to get a relative
12 wrong.

13 (Discussion held off the record.)

14 MR. CIOLKO: Even money that was
15 provided, even if the parents were -- did provide
16 money, it was -- it's a personal loan. So Miss
17 Nedley is on the hook for any money she would have
18 gotten from her parents.

19 I realize that we want to paper that
20 somehow. I just want to get as much information to
21 you as possible, especially the fact that any
22 payment that was -- appears to have been made
23 during that spring 2020 semester was made by Miss
24 Nedley, the fee and tuition payment is the way it
25 adds up.

1 It's a direct plus loan, one loan that
2 appears not to have been cancelled out that she and
3 her parents might be on the hook for together.

4 MR. KIDNEY: Okay.

5 MR. CIOLKO: I imagine the folks at
6 student aid would confirm that as well with that
7 update.

8 And thank you, Bailey, and thank you,
9 Miss Nedley.

10 She's also read through the RFAs. And
11 ask away.

12 MR. KIDNEY: So thank you for that
13 clarification, Ed. That is helpful.

14 BY MR. KIDNEY:

15 Q. So, Miss Nedley, have you had an
16 opportunity to review your RFA responses?

17 A. Yes.

18 Q. And by RFA, I mean request for
19 admission.

20 A. Yes.

21 Q. And is -- are all of the responses
22 accurate, Miss Nedley?

23 A. Yes.

24 MR. CIOLKO: Of course, we obviously
25 retain the right to amend if any new information

1 comes up. Go ahead.

2 MR. KIDNEY: Understood.

3 BY MR. KIDNEY:

4 Q. As you sit here today, Miss Nedley, is
5 there anything that was inaccurate in your
6 responses or that you wish to supplement?

7 A. No.

8 Q. Do you know people, Miss Nedley, who
9 contracted COVID during the Spring 2020 semester?

10 MR. CIOLKO: Objection; relevance.
11 But you can answer.

12 A. Can I have a few seconds, please?

13 Q. Sure.

14 A. I honestly cannot keep track of it
15 right now because so many of my friends and
16 classmates have COVID, and I would have to think
17 about that and get back to you.

18 Q. Do you know -- as you sit here today,
19 do you know of any students who worked with student
20 health in the spring of 2020 in order to conduct --
21 I'm sorry, contact tracing?

22 A. I don't believe in the spring of 2020.

23 Q. Career services, in the first half of
24 spring 2020, you obtained information from career
25 services virtually; is that correct?

1 A. Yes.

2 Q. In the second half of the spring 2020
3 semester, after the pandemic hit, you were able to
4 obtain the same information from career services
5 that you obtained in the first half of the
6 semester; is that correct?

7 MR. CIOLKO: Objection;

8 mischaracterization of testimony and form.

9 A. I was able to receive the information,
10 but I was not able to go build relationships with
11 the advisors who were going to be writing my
12 letters of recommendation for dental school.

13 Q. And are -- the advisors who write your
14 letters of recommendation for dental school, are in
15 career services?

16 A. Yes.

17 Q. What is the name of your great aunt
18 and great uncle?

19 MR. CIOLKO: I'm -- I need to confer
20 with my client, Michael.

21 (Discussion held off the record.)

22 MR. CIOLKO: My first answer, this --
23 whatever goes on the record here, I request it be
24 marked highly confidential.

25 MR. KIDNEY: We have no objection.

1 MR. CIOLKO: The second, I'm going to
2 object from a relevance standpoint, and I'm also
3 going to reiterate that any payment that was made
4 -- we believe any payment that was made during the
5 relevant semester to Penn was made by plaintiffs.
6 If we find that untrue, we, of course, will tell
7 you who made the payment and what the contact
8 information is.

9 But aside from the relevance
10 objection, we have a personal privacy situation
11 with regards to Miss Nedley's great aunt and uncle
12 regarding a death in the family. So I'm going to
13 instruct her not to answer your questions with
14 regards to their information at the current time.

15 If it turns out that they're the
16 source of payments that are reflected in the
17 spreadsheets, I certainly will advise my client
18 that that information may need to be shared. But
19 I'm -- I'm not comfortable providing that
20 information, especially since, to our best
21 knowledge, none of their funds were utilized during
22 the semester that is relevant to this litigation.

23 MR. KIDNEY: For the record, we take
24 -- we disagree with the objection. There's clear
25 case law that a client should not be instructed not

1 to answer in the absence of privilege. It's not
2 appropriate to instruct a witness not to answer on
3 the basis of relevance.

4 And we think it is relevant because
5 Miss Nedley earlier testified she was not sure if
6 these relatives had just gave money for her last
7 year and she would have to check with them.

8 MR. CIOLKO: And we'll be checking
9 that.

10 MR. KIDNEY: So I want to make clear
11 that it is -- we think the objection is improper --

12 MR. CIOLKO: Understood.

13 MR. KIDNEY: -- under existing case
14 law.

15 BY MR. KIDNEY:

16 Q. So, Miss Nedley, let me make sure I
17 understand where we are right now on these payment
18 issues.

19 If I'm understanding, your counsel has
20 represented -- can you hear me okay?

21 THE WITNESS: Can you hear us now?

22 MR. KIDNEY: Can you hear me now? We
23 can.

24 THE WITNESS: Can you speak again?

25 MR. KIDNEY: Say that again?

1 MR. CIOLKO: My computer got kicked
2 off the Zoom.

3 MR. KIDNEY: Oh.

4 Q. So, Miss Nedley, let me ask you -- I
5 want to make sure I understand where we are at this
6 stage in the deposition, again, with respect to
7 this payment issue.

8 I appreciate your counsel has
9 represented some things, and I want to make sure I
10 understand.

11 So your -- is it your testimony that
12 your parents may have indeed paid for more than
13 your rent and your meal plan, but if they did, even
14 though they paid with their own funds, that is --
15 your parents are expecting, and you have agreed,
16 that you will eventually pay them back; is that
17 correct?

18 MR. CIOLKO: I would like Miss Nedley
19 to answer, but that is a mischaracterization of my
20 statement. Only to the extent of any payments
21 would have come from Miss Nedley, we're giving you
22 the source of some of those funds in Miss Nedley's
23 account.

24 MR. KIDNEY: All right.

25 BY MR. KIDNEY:

1 Q. So the money came from you, Miss
2 Nedley, but you obtained the money from your
3 parents sometimes?

4 A. Yes.

5 Q. Rather than your parents --

6 A. Yes.

7 Q. -- directly writing a check?

8 A. Yes, yes. But I had that same
9 question earlier, and that was my money directly.

10 Q. I'm sorry. Say that again?

11 A. The scholarship and the savings that
12 we had discussed earlier --

13 Q. Yes.

14 A. -- that is my money personally.

15 Q. Okay. But then when that money ran
16 out, is it your -- am I understanding this right,
17 that your parents wrote a check or however else,
18 they transferred money, and rather than sending it
19 directly to the University of Pennsylvania, they
20 gave it to you, and then you paid that money to the
21 University of Pennsylvania?

22 MR. CIOLKO: Objection to form. But
23 you can answer if you can.

24 A. Yes.

25 BY MR. KIDNEY:

1 Q. And to the best of your knowledge,
2 your parents never paid money directly to the
3 University of Pennsylvania?

4 A. I don't believe so. I will check with
5 them.

6 Q. And then on the plus direct loan, it's
7 your understanding -- even if -- if we obtain a
8 copy of that loan and you haven't signed it -- and
9 it's my understanding that undergraduates are not
10 asked to sign it -- am I understanding this
11 correctly that it's your expectation and your
12 parents' expectation that you will pay that loan
13 off eventually?

14 A. Yes.

15 MR. KIDNEY: I think those are all my
16 questions. Thank you for your time today.

17 THE WITNESS: Thank you.

18 MR. CIOLKO: I'm good. There's no
19 redirect.

20 MR. KIDNEY: Okay. All right. Well,
21 you are free to go, Miss Nedley.

22 (Concluded 3:46 p.m.)

23 CERTIFICATE

24

25 I do hereby certify that the aforesaid

1 testimony was taken before me, pursuant to notice,
2 at the time and place indicated; that said deponent
3 was by me duly sworn to tell the truth, the whole
4 truth, and nothing but the truth; that the
5 testimony of said deponent was correctly recorded
6 in machine shorthand by me and thereafter
7 transcribed under my supervision with
8 computer-aided transcription; that the deposition
9 is a true and correct record of the testimony given
10 by the witness; and that I am neither of counsel
11 nor kin to any party in said action, nor interested
12 in the outcome thereof.

13 _____
14 Leandra Stoudt, RPR, CRR
15 CBC, CCP, Notary Public
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